NATIONAL MUNICIPAL REVIEW

VOL. XVIII, No. 5 MAY, 1929 TOTAL No. 155

EDITORIAL COMMENT

The city of Los Angeles is conducting a Municipal Exhibit lasting from April to June. The exhibit includes civil service tests, park miniatures, the story of public health, models of public buildings and color reliefs of public improvements. It is under the direction of Roy A. Knox, director of the bureau of budget and efficiency of the city.

*

Under an ordinance recently passed by the Cincinnati council the taxicab industry of that city is definitely placed on a public utility basis and the principle of public convenience and necessity is applied to determine the number of taxicabs that should be licensed. Heretofore, Cincinnati, in common with most other cities, has placed no restriction on the number of taxicabs operating in the city. As a consequence the business has often been thrown into turmoil by influx of irresponsible operators. An interesting feature of the ordinance is permission to taxicabs to charge on the basis of zone rates or on a time basis measured by a taximeter.

*

After more than a year's study the charter commission of New Rochelle, N. Y., has reported to the city council in favor of the city manager form of government. Few charter commissions have approached their task with greater seriousness or more energy than that of New Rochelle. Scores of witnesses have been examined and numerous experts in the various fields of the local government have been interviewed. In addition, field studies of cities under the manager plan have been made by various members of the commission.

A unique feature of the proposed charter is the provision that during the first three years of the plan's operation no one may be appointed as manager who has not had at least three years experience in the profession. Edward S. Seidman is chairman of the commission and E. S. Bradford, author of *Commission Government in American Cities*, is secretary.

*

Of the sixteen measures introduced in the Pennsylvania legislature to improve the election administration in that state but three seem destined to pass. Of those which will probably succeed, the most important is the resolution to amend the state constitution to permit local option in the use of voting machines. The two other measures scheduled for passage are one to facilitate public inspection of election records and one requiring preservation of surplus ballots. In the past, investigations into election frauds have been hampered by the necessity of court order to examine election records

and by the immediate destruction of surplus ballots the moment the polls had closed.

Important election reform bills which will probably fail include one for permanent registration for Philadelphia and Pittsburgh, one placing more stringent restrictions upon assistance to voter, one intended to kill the chain ballot, and another to establish a central depository for ballots in the larger counties of the state.

*

Real Motives of National Municipal League Revealed

The following clipping from an Iowa newspaper is intended to expose the true purpose of the League. Similar sentiments are frequently expressed by other newspapers opposed to measures which we advocate. Happily such publicity appears to help and not to hinder us. As an organization we are bigger and better than ever.

The National Municipal League has been sending out free dope from No. 261 Broadway, New York, to the newspapers, featuring up the beauties of the manager plan for municipalities, which is bigger bunk than the commission plan, and both intended to centralize power with a weak few, and those before election who are the most diplomatic in making promises usually win. We assume, however, the real propaganda is to and for those who are or may want to become managers at princely salaries and at the expense of the innocent tax payers. The beneficial results of the plan are not as claimed by the New Yorkers, and beware of their propaganda.

*

5-Cent Fare Decision Helps Jimmy Walker

As our readers know, the United States Supreme Court has come to the defense of the 5-cent fare for the I. R. T. subway system in New York City. The issues involved and the questions which the Court did or did not settle are discussed by John Bauer in the Department of Public Utilities in this issue.

The subways operated by the Interborough Company are paying the company (though not the city) well. The company's difficulties grow out of the ruinous rental it pays for the elevated properties which it also operates. Last year the United States Statutory Court allowed it to lump the two and call them a unified system. This view the Supreme Court rejected.

The company claimed an eight per cent return on properties which it had leased from the city although the city has been willing to forego returns in favor of retaining the 5-cent fare. This claim the Court appears to have disallowed also.

With these two questions out of the way, the chance that the company can show that the present fare is confiscatory, even if the contract establishing it is not a contract involving an inflexible fare, is very slight. If it is to continue its litigation, it must now turn to the state courts for the determination of certain questions of state law. Only after these matter have been decided will it again be welcome in the United States courts.

The political effect of the decision is clear. Jimmy Walker will be renominated as Tammany's candidate for mayor. He will have little effective opposition. Hylan, who had been preparing to run on the 5-cent fare issue, is removed from the scene although he still protests that he will run on the issues of vice and buses. A few days before the decision was handed down the city announced that it planned to build another subway on the East Side. This news was received with great joy along Second Avenue. Now it may not be necessary to build this subway, before the election in November anyway.

*

Sad Fate of Crime Bills in State Legislatures

All politicians talk about crime abatement; few seem to want to do anything about it. Yet

crime surveys are the order of the day, and in general, their findings agree on a few fundamental reforms. Appropriate legislation is then prepared and introduced but somehow becomes sidetracked during the legislative sessions. Wise men doubtless can explain why needed reforms about which everyone seems to agree are thus frustrated. Many have a suspicion that the preponderant number of lawyers in our state legislatures has something to do with it. The bar has never been a pioneer and it is perhaps well that it is not. But the time is already overdue when it should purge itself of the charge that its members often preach reform while in their hearts desiring no change.

In the Notes and Events department of this number, Bruce Smith reports that but half the bills introduced by the Baumes Commission passed in New York. Compared with other states this is a small percentage of failure. Three years ago Missouri conducted a comprehensive crime survey; its findings make a formidable volume. Yet, according to the *St. Louis Globe-Democrat*, of the measures recommended by the surveyors, all of them the product of careful study and investigation, not a single one of importance has passed the legislature. On the contrary, they have been treated with contempt and their authors have been reviled as if they were enemies of the state.

At this writing there are before the Pennsylvania legislature twenty-one bills designed to modernize criminal law and procedure, as crime has been modernized. Two have passed; the others face defeat. Yet the twenty-one embody the conclusions of the state crime commission, a judicial conference of all the judges of the state, and the District Attorneys' Association of Pennsylvania. Among the measures which will probably fail are bills—

> Permitting the prosecution to comment upon the failure of a defendant to take the witness stand.
>
> Providing for the examination of talesmen by the judge instead of the opposing lawyers.
>
> Making bail-jumping a crime.
>
> Permitting defendants, except in capital cases, to waive trial by jury.
>
> Requiring licenses and registration for the possession of firearms.
>
> Five bills simplifying procedure, regulating dilatory motions, reducing time allowed for appeals, etc.

The late Governor Hadley laid the blame squarely at the door of the lawyers when he said:

> The reason is that our legislatures have generally been controlled by lawyers, who have been disposed to look at such questions from the standpoint of defendants' counsel. These men have been more in favor of the maintenance of existing procedure, under which they can practice effectively, than in procuring a system which will result in prompt and certain conviction of the guilty.

The *Philadelphia Record* adds: "Let the lawyers from Racketville stand up and be counted."

*

Graft Number of National Municipal Review

Exposures of municipal corruption are beginning to be the order of the day. In this issue are told the stories of election frauds in Philadelphia and Cleveland, of councilmanic scandals in Cleveland, of revelations of police connection with crime and vice in Philadelphia, and of the indictment of prominent officials in Los Angeles.

In Cleveland two precinct election officials have received prison sentences of one to three years, and three have been acquitted. Twenty-six are still under indictment and their prosecution will probably be continued by the attorney-general. One councilman was convicted of bribery and given a sen-

tence of two years and nine months. Another councilman has been sentenced to the state penitentiary for a term of five to ten years and his son given a sentence of one to ten years, both for graft in connection with land purchases by the city. Specific charges of similar irregularities have been made against another councilman and will probably be investigated by the grand jury. Other accusations of irregularities in land purchases have been made and will probably receive attention by the grand jury. The grand jury refused to indict the county sheriff for expense bills padded about ten years ago. Another councilman, the chairman of the building codes committee of council, is under indictment for soliciting and accepting $500 for aid in securing a building permit. As Mr. Huus points out, there is little evidence that the political organization in control of the city has suffered any change of heart. But the revelations have undoubtedly reduced the prestige of Manager Hopkins and the present form of city government; and the perennial movement for a return to the elective mayor and council plan has received new impetus.

In Philadelphia a sorry alliance between crime and the police was revealed by a special grand jury. The bootlegging industry was shown to be taking advantage of large scale production, division of labor and specially created investment corporations such as any other large industry might do. While scores of ordinary cops were exposed the "higher-ups" could not be indicted. They had so protected themselves that their names seldom figured in their transactions and the "lower downs" refused to give the information necessary for the indictment of the real offenders. According to Mr. Krueger, writing in the Notes and Events Department of this issue, the exposé has not disturbed Philadelphia's contentment nor brought alarm to City Hall. While the grand jury was being discharged in Philadelphia the new optional charter bill was being quietly smothered at Harrisburg.

In Los Angeles, Mr. Dykstra informs us, the district attorney has been sentenced to serve one to fourteen years in the state penitentiary for soliciting and accepting bribes and a judge is undergoing impeachment proceedings before the state senate for receiving money from Angelus Temple run by the well known Amie Semple McPherson.

*

A New Dwelling Law for New York

The much discussed multiple dwelling bill for New York City has finally received the approval of Governor Roosevelt and is now law. Its provisions are fully explained on page 305 of this issue by Lawson Purdy, who was among the three most prominent advocates of it. As far as New York City is concerned, the famous tenement house law of 1901 is repealed by this act. Buffalo, however, will continue under the earlier statute.

The new measure does not go so far as the bill which failed last year and which was too radical for the real estate interests. For this reason a compromise measure was introduced this year. Although endorsed by the more responsible real estate organizations, the compromise faced attach from three groups, viz., certain reactionary real estate operators, reformers who denied that half a loaf was better than no bread, and Mayor Walker and his organization who deemed the bill an infringement of the city's home rule power.

THE CORK CITY MANAGER PLAN AN IRISH EXPERIMENT

BY JOHN J. HORGAN
Cork, Ireland

The city manager plan has been introduced in Ireland with certain modifications over the American prototype. The new system explained by the man who drafted it. :: :: :: :: :: :: ::

THE city of Cork in the Irish Free State is about to inaugurate a new system of government which ought to be of interest to American students of local government, as it is the first application of the American city manager plan to a European city.

Up to four years ago the city of Cork was governed by a mayor and council on the lines of other Irish cities, but at that time, owing to complaints of maladministration made by the citizens, the Cork council was dissolved by an order of the national minister for local government and a paid government commissioner was appointed to manage the affairs of the city. He was answerable to the minister for local government and not to the people of Cork. Outside the parties immediately interested, there was very little criticism of this revolutionary step. Most people who expressed an opinion seemed to look upon the reinstatement of the old council, or its counterpart, after a decent interval, as a foregone conclusion. A few Cork citizens, however, thought it was neither possible nor desirable to return to the old régime or to continue the new autocratic commissioner rule. They felt that the problem was to formulate a new system of municipal government for Cork which, having regard to modern experience elsewhere, would embody the best features of the old system and the new, and which in time if successful could be applied to the whole country. It seemed to them that the best feature of the old mayor and council system was that it brought local taxation directly under local control, and that the best feature of the new commissioner management was that it removed the details of local administration and public appointments out of direct local control and applied to them the ordinary methods of efficient business administration.

NOT A SLAVISH COPY OF THE AMERICAN PLAN

With these ideas and principles in mind a committee of representative citizens asked the present writer to draft a scheme for the future government of Cork, and this scheme after discussion and modification was finally adopted by the government of the Irish Free State and will have become law probably before this article appears in print. Although chiefly influenced by American and German experience and methods of local government, it is not a slavish copy of either and only takes from them what is directly applicable to local needs.

The new Cork City Manager Act provides that the city of Cork will be governed by a council of twenty-one members elected by the city at large, and by a city manager. The council shall directly exercise and perform all the following powers functions, and

duties, namely—the making of any rate or tax, the borrowing of any moneys, the making, amending, or revoking of any bye-law, the making of any order by which any permissive act of parliament is applied to the city, the promotion or the opposing of legislation in parliament, the election of a lord mayor, the prosecution and defence of legal proceedings, the appointment or election of any person to be a member of any public body, the management of local elections, the admission of persons to the honor of the freedom of the city, the suspension and removal of the city manager if carried by a two-thirds majority of the council and sanctioned by the minister for local government, the fixing of the salaries of the lord mayor and the city manager.

The minister for local government may by order further extend the powers, functions and duties of the council on an application made by two-thirds of the council and may similarly revoke same. All other functions and duties save those mentioned above shall be exercised and performed by the city manager, and the first city manager is to be Commissioner Monahan, who has now managed the civic affairs of Cork for four years. His successor shall be appointed by the Local Appointments Commission, a civil service body which makes all the important local appointments in the Free State.

It shall be the duty of the city manager to advise the council on policy and attend its meetings. He is also bound to furnish the lord mayor, who will be the civic and ceremonial head of the city, with any information he requires and with a monthly financial statement of the council's position. He shall control the officers and servants of the city and shall decide all such questions as may arise in relation to their service, remuneration, privileges and superannuation. He shall act by signed order and the town clerk shall keep a register of all such orders which shall be produced at every meeting of the council. He shall prepare each year an estimate of the amounts necessary to meet the requirements of the city for the coming year, and this estimate or budget will after a fortnight's notice be discussed by the council at the annual taxation meeting at which it shall be adopted, with or without modification as the council sees fit. In case the city manager is absent through illness, or in case of his suspension, the lord mayor shall have power to appoint a deputy manager who shall have all the powers of the city manager.

RELATION BETWEEN LORD MAYOR AND MANAGER

After the first election of the full council seven members will retire each year and their places will be filled by the same method of election. It will be realized that the success of this new system will depend to a considerable extent, at least in its initial stages, on the relations existing between the lord mayor and the city manager. The lord mayor will be in effect the civic head and the mouthpiece of the council and the citizens, the city manager the administrative controller of the city machinery. The lord mayor should be the spokesman for the manager and the liaison officer between the manager and the council. The manager must accept the broad general policy of the council as expressed by the majority, be it for high or low expenditure.

It will be the council's business to decide how much is to be spent and the projects on which it is to be spent. The manager's task will be to see that the money so spent is spent to the best advantage. He cannot prevent the council from being niggardly in expend-

iture, neither can he prevent it from expending money on works which he may regard as worthless.

Two aspects of the Cork plan are supremely important. In the first place it has been designed and devised by Corkmen for the sole purpose of providing Cork with an efficient system of city government. In the second place, and this is the corollary of the first, it has not been devised for the benefit of any section or class in the community. Its authors believe that the prosperity of Cork is intimately bound up with its municipal government. A well managed city with the natural advantages of Cork is bound to prosper and if it prospers all sections and classes of the community will benefit. Let us hope that the people of Cork will elect their best citizens to their new council. If this happens there can be little doubt that before many years are over the other cities of the Free State will seek similar powers and that Cork, not for the first time, will have set a headline for Ireland.

ELECTION FRAUDS AND COUNCILMANIC SCANDALS STIR CLEVELAND

BY R. O. HUUS AND D. I. CLINE

Revelations of graft with subsequent indictments and convictions of city officials have featured the new year in Cleveland. The scandals have renewed activity in favor of abolishing the city manager charter.

THE activities of the newly elected county prosecutor, Ray T. Miller, and Attorney Generals Edward C. Turner and Gilbert Bettman, in uncovering and prosecuting local election frauds and councilmanic scandals have furthered movements either to reform or to abolish the present city manager plan in Cleveland.

Following the defeat in April, 1928, of the attempt of Harry L. Davis to overthrow the city manager plan, there was a brief lull in Cleveland politics. However, as the August primaries approached an insurgent movement against Maschke, Republican leader, developed within the party ranks, for the nominations for county prosecutor and sheriff. The independents nominated George B. Harris for county prosecutor, against Arthur H. Day, Maschke's choice. Harris, together with Ray T. Miller, the outstanding Democratic candidate, received the endorsement of the Cleveland Bar Association. For county sheriff the Republican organization backed J. G. Tomson, former street commissioner, who had resigned under charges of using the office for party patronage. E. J. Hanratty, the present sheriff, was supported by the Democratic organization.

Maschke's choices, Day and Tomson, won the Republican primaries. Miller and Hanratty became their Democratic opponents. The struggle for the key positions of sheriff and prosecutor was on.

An interesting feature of the primaries was the unusually large vote received by Peter Witt, well-known independent, as a Democratic gubernatorial candidate. Witt's total vote in Cuyahoga County of 31,672 against 2,954 votes for Davey, the leading

Democratic candidate, revealed his strength as a potential political leader of Democratic or independent groups. This was Witt's first indorsement by the Democratic organization in thirteen years.

MASCHKE LOSES CONTROL OF PROSECUTOR'S OFFICE

Throughout the entire election campaign, Arthur H. Day repeatedly endorsed the administration of Prosecutor Edward Stanton, who had been in office eight years, promising if elected a continuance of its "splendid record." Two of the local newspapers, the Citizens' League, many independent Republican groups, and the Democratic organization rallied to the support of Miller. The fact that the Bar Association threw its endorsement to Harris and to Miller weighed heavily against Day. The *Plain Dealer* characterized this "splendid record" as follows: "The boasted efficiency of the Stanton administration is to be found in a record of inaction, of indictments nolled, of charges reduced, of unmerited clemency recommended, of inefficiency at the trial table, and of refusals to respond to appeals for action to clean up crime conditions." The Citizens' League bulletin on candidates urged the defeat of Day, saying, "The important office of prosecuting attorney demands the election of a man with a better record in public office and a different attitude toward public service," and that "he is not fitted for the prosecution of crime and the enforcement of law."

The Republican organization was stirred to extraordinary activity. Maschke, personally, took the stump in defense of the Republican slate, thus emphasizing the importance of Day's election. Miller centered his charges against the Stanton administration, citing the prevalence of racketeering activities and the miscarriage of justice due to partisan and political influences. With an entirely new election board in control on November 6, the Democrats succeeded in electing Miller and Hanratty, despite the fact that the Republicans carried every other elective office in the county. The victories were by scant margins, however, Miller's vote exceeding Day's by 3.4 per cent, and Hanratty's exceeding Tomson's by 6.4 per cent. The widespread splitting of the tickets, both in Cleveland and in the suburbs, made possible their election and was a rebuke to Maschke from within the ranks of his own party. Later events indicated that the choice of Miller for prosecutor was the outstanding local event of the election.

For some time elements within the Democratic party have been dissatisfied with the lack of aggressive opposition on the part of Burr Gongwer, Democratic party leader. It has been frequently asserted that an understanding exists between him and the leaders of the other party.

ELECTION FRAUDS

Charges of fraud in city and county elections have been frequent in recent years. An Honest Elections Committee was formed to observe the balloting at the primaries on August 14. After the primaries this committee secured the arrests of ten election officials who had refused to allow challengers and inspectors to enter polling booths. Evidences of irregularity were turned over to the Cleveland Bar Association, and on September 8 the Association urged Governor Vic Donahey to send the attorney general to Cleveland to conduct a grand jury investigation. Three days later Attorney General Edward Turner arrived. On October 27, the grand jury recommended the removal of three of the four members of the county board of elections and

all of the employees, and their replacement before the election. The grand jury excepted Mrs. Bernice Pyke, Democrat, because of her recent appointment to the board, her willingness to coöperate with the grand jury, and her apparent endeavors to improve election conditions. The recommendations were sent to the secretary of state, Clarence J. Brown, who came to Cleveland, reviewed the evidence and on October 30 dismissed the entire board of elections including Mrs. Pyke. His reasons for including her were that "she could have acquainted herself with the duties, she failed to report the dereliction of the others, and while not morally as derelict is legally as responsible."

Amid the resulting confusion Secretary of State Brown appointed two out-of-town custodians of election machinery to take charge and assist the new board. The consensus of opinion was that the new board appointed by the secretary of state was better than the old one, although there are evidences that some of its members are not entirely immune to partisan influences. The board immediately dismissed 378 of the old booth officials, and the election held on November 6 with the assistance of the two custodians was the first in recent years to be free from charges of fraud.

ELECTION OFFICIALS COME TO TRIAL

As a result of the evidence submitted by Attorney General Turner, the grand jury on December 7 returned indictments for election frauds against thirty-one precinct officials. In the first case the trial jury after a thirty-five hour deadlock was dismissed by the presiding judge. On January 16 the newly elected attorney general arrived in Cleveland to continue the prosecution but the second trial resulted in acquittal. On February 5 two of the three defendants of the first trial were retried but the trial jury was again deadlocked and dismissed. However, the third retrial of these same defendants resulted on March 12 in a jury conviction of both men. The fifth trial case involving three persons resulted in acquittals. To date the five election fraud trials already completed have resulted in the conviction of two of the thirty-one persons indicted, with prison sentences of one to three years. Prosecution of the other indicted persons will probably be continued by the attorney general.

COUNCILMEN CONVICTED IN BRIBERY AND LAND DEAL SCANDALS

While the vote fraud trials were going on, the public was again aroused by charges of Walter Oehme, a disabled ex-policeman, that Thomas W. Fleming, a prominent colored leader of the eleventh ward and a lieutenant of Maurice Maschke, solicited and accepted a bribe of $200. Mr. Fleming had been a councilman for fifteen years and, at the time, was chairman of the police and fire committee. On February 8 a trial jury convicted Fleming of accepting a bribe for introducing legislation in the city council to reimburse Oehme for a $1,740 medical bill acquired as the result of an accident while on duty. He was given a prison sentence of two years and nine months. The case has been carried to the court of appeals. One of the features of Fleming's defense was his use of character witnesses, among whom were the mayor, the city clerk, and some judges of the court of common pleas. On February 9 Fleming announced his resignation from the council and Reverend Russel Brown, a well-known religious and social worker among the colored groups, was elected with the support of the Republican members. Fleming's conviction and his consequent

withdrawal as a party leader were a severe blow to the prestige of the Republican organization. This was the first important case of the newly elected prosecutor, Ray T. Miller, and it gave evidence of the energy and ability that have characterized his later prosecutions.

Quickly following the Fleming conviction the newspapers were again furnished with a new sensation based on specific charges against a number of other councilmen. On February 11, Dr. F. W. Walz charged that his fellow councilman, William G. Gibbons, chairman of the city property committee, had introduced a resolution on November 26 to have the city pay $47,500 for a playground site that was worth only $22,750. "That," Walz is reported to have said, "makes a $200 man look like a piker." The subsequent investigation as to the market value of the lots in the playground site resulted in widely varying appraisals. The most significant probably was the appraisal of the Cleveland Real Estate Board, which was $23,660. The investigating committee approved the appraisal of $23,660 of the Real Estate Board as the fair price of the land and commended City Manager Hopkins for disapproving the resolution because the price was too high. No material evidence of irregularities was discovered. Mr. Gibbons has stated that he has no intention of resigning. It is probable that an investigation of this case will be continued by the next term of the grand jury in April.

While the Gibbons case was being investigated, Miller presented evidence to the grand jury showing that L. G. Schooley, chairman of the council's finance committee, and his son, Gresham Schooley, had profited from a city land purchase. On February 20 both of the Schooleys were indicted and pled not guilty. At the trial the plea was changed to guilty, and a few days later L. G. Schooley was given a state penitentiary term of from five to ten years, while his son was given a term of from one to ten years. This case also involved playground properties which the city purchased for a total of $83,250 as a result of a resolution introduced by Councilman William E. Potter on October 9, 1928. The owner of the properties received only $49,678 of this amount, leaving a balance of $33,572 to be accounted for. Of this amount $30,000 was traced, at least in the first instance, directly to the Schooleys. Although prosecutor Miller promised leniency to the Schooleys before the sentence was imposed if they would divulge the names of others involved in the deal, they refused to make any admissions other than their own guilt. The Cleveland Real Estate Board's appraisal of these properties was only $44,016, although City Manager Hopkins maintained during the investigation that the land was worth the $83,250 that the city paid. When asked to comment on the matter of Schooley's resignation from the council, Mr. Maschke replied, "I have not asked Schooley to resign; I consider that question is a matter between Mr. Schooley and his own conscience."

The next case calling for the attention of the prosecutor was a purchase made by the city during July, 1927, of Gordon Gardens, a part of the lake front development plan, for $365,000. Testimony before the grand jury brought out the fact that the agent who had handled the transaction for the owner had received a fee of $47,500. The investigation of this case will probably be continued by the new grand jury. Another land deal uncovered involved the purchase of property by the city for widening Pershing Avenue. The resolution to purchase this was introduced by councilman A. B.

Sprosty, chairman of the streets committee and one of the key members of the Republican organization in the council. It is claimed that Mr. Sprosty as a director of the Atlas Savings and Loan Company approved loans granted to the Atlas Finance Company for the purpose of acquiring land parcels of property to be used by the city for this street widening. This case is still incomplete.

The next case concerned the Democratic county sheriff, E. J. Hanratty. It was alleged that expense bills under the jurisdiction of the sheriff had been padded between the years 1917 and 1921. These charges were based on an investigation of the state bureau of inspection and supervision of public offices, recently released. No indictments were returned by the grand jury. The fact that restitution had been made and the time that had elapsed influenced the mind of the grand jury.

The last councilmanic case concerned William E. Potter, chairman of the building codes committee. He was indicted on charges of soliciting and accepting $500 for using his influence to have a building permit reissued after the original permit had been revoked. The jury trial of this case is set for April 15.

The latest sensation is the investigation of the local civil service commission by a special committee of the council, to determine the validity of charges of political influence in applying the merit system.

EFFECTS OF VOTE FRAUDS AND GRAFT EXPOSURES

This entire political drama has revolved around the activities of Attorney Generals Turner and Bettman and County Prosecutor Miller. Even within this short time Miller's prosecution of cases has been in striking contrast to that of his predecessor, Edward C. Stanton.

Although a house cleaning has been going on, there is little evidence that Mr. Maschke and the majority membership of the county Republican committee have experienced any change of heart. Republican leaders have, for the most part, met the numerous evidences of fraud and graft with silence, evasion, excuse, and even defense. Responsibility for existing conditions lies squarely with Mr. Maschke and the Republican county executive committee.

Of immediate interest is the effect of these exposures on the present city manager charter. In view of the two recent attempts to overthrow the charter, which were almost successful, and the tendency to associate the exposure with the manager plan, the situation is serious. For the most part, the regulars of both parties are hostile to both the city manager plan and proportional representation. On the other hand, a great many people feel that some revised form of the mayor-council plan would be an improvement over the present set-up. In the heat of the conflict many of the independent voters and leaders on both sides have lost sight of the salient fact that the city manager charter has been in the hands of its enemies from the beginning, and that the city manager plan has not yet been given a fair or adequate trial.

NEW CHARTER PLANS

Petitions are now being circulated for the Downer-Danaceau Charter providing for an elective mayor, a council of thirty-three members, nominated by petition, and elected from wards. The organization sponsoring this charter calls itself the Committee for the Federal Plan and is emphasizing the necessity of a popularly elected

chief executive. It is sponsored by unaffiliated independents and some friends of Peter Witt, although Witt personally does not favor this charter. Harry L. Davis, who led the fight against the manager charter in the last two contests, and whose own charter petitions were recently rejected by the council for irregularities, has endorsed this charter. It is said that petitions for another charter, also sponsored by supporters of Witt, will be out very soon. This charter also provides for an elective mayor, with a small council of nine elected at large under proportional representation. Neither Mr. Maschke nor other Republican organization leaders have committed themselves, but are known to prefer the mayor-council form without proportional representation. No defense of the manager charter has yet crystallized.

It is possible that the present charter will be either revised or overthrown. Even if the new attacks fail, there will be some new faces in the council after the fall election. The ultimate effects of the fraud and graft probes on Cleveland's city government cannot yet be foretold.

ELECTION FRAUDS IN PHILADELPHIA

BY MAYNARD C. KRUEGER
University of Pennsylvania

As the last Congress was drawing to a close, the Reed investigating committee reported on William S. Vare's election to the Senate. Its findings confirm our worst fears. Had the committee examined more Philadelphia witnesses, additional quantities of damning evidence of fraud would undoubtedly have been revealed. :: ::

When Governor Pinchot reported to the senate the results of the election of November 2, 1926, he certified that "on the face of the returns filed William S. Vare appears to have been chosen by the qualified electors of Pennsylvania a senator from said state." He refused, however, to certify that Mr. Vare had been "duly chosen," being convinced "that his nomination was partly bought and partly stolen, and that frauds committed in his interest have tainted both the primary and the general election." Mr. Pinchot did not believe that the election returns correctly represented the will of the sovereign voters of Pennsylvania.

A senate resolution instructed the special committee investigating expenditures in senatorial primary and general elections to inquire into the election of Mr. Vare. Despite obstructionist tactics in Washington and in Pennsylvania, the records of the November election were finally obtained by the committee. The results of the investigation are available in Senate Report No. 1858, submitted to the senate by Mr. James A. Reed, chairman of the committee, in February, 1929.

ELECTION PRACTICES IN PHILADELPHIA

Philadelphia is controlled politically by the Republican party. The Republican party machinery is and has been for years in the hands of the "regulars." For years the "regulars" have been led by the Vare family,

nearly always to victory, the chief reward for success being the ninety-million-dollar city budget. In 1926 for the first time the local political leader, who inherited the organization from his brother, aspired to a seat in the United States senate. The methods used in obtaining his election are of significance because they represent the common means of subsistence of the political organization which dominates Philadelphia.

A qualified voter in Pennsylvania must, within two years of the election, have paid a state or county tax. In Philadelphia the usual method of compliance is the payment of a poll tax. In 1926 this poll tax was 50 cents. The tax receipt cannot be legally issued except to the person against whom the tax was assessed or upon his written order, and any person who votes on a receipt illegally issued is subject to fine and imprisonment.

The receiver of taxes in Philadelphia testified that deliberate violation of this act was customary in Philadelphia. A member of the regular organization could purchase poll tax receipts in groups, but when independent groups tried to do so the receipts were refused. The senate committee examined the stubs of all receipts qualifying electors for voting in any of Philadelphia's 1,500 election districts in 1926. In many of the districts the stub books carried notations on the back showing how many of the receipts had actually been paid for, and many of the stubs bore marks of various sorts or the names or initials of political workers. In all, the investigation showed that in 674 divisions, more than a third of the entire city, 21,572 poll tax receipts had been illegally issued to qualify voters for registration.

Before the senatorial primaries of May, 1926, thousands of names were struck off the registration lists of 1925 because of fraud. Registration for the election of November was so late, however, that the registers could not be examined before October 23, after which no names could legally be challenged.

PADDING THE LISTS MOST COMMON FRAUD

Of the various forms of registration fraud, the most common was the padding of the lists by writing in the names of real or fictitious persons whose signatures in the registry books were forged, and for whom later fraudulent ballots were cast. In 167 divisions selected at random, the signatures in the registry books were examined by experts for the committee. The lists included dead people, unnaturalized foreigners, and children. In 151 divisions 1,547 signatures were forged by persons who made the entries which registrars alone are allowed to make. Some signatures in addition were falsified by persons other than the registrars.

A favorite method of padding the registration books was that of signing for "illiterates." An examination of all registrations made by mark showed 9,574 not supported by affidavit, and therefore illegal and possibly fraudulent. The committee estimated the total number of names fraudulently entered by registrars at 14,000, and by others at about 4,000.

Of the 1,500 election districts in Philadelphia the senatorial vote was correctly counted by the election officers in but 181 districts. By the recount Vare lost 6,096 votes in 905 divisions and gained 894 in 258 divisions, a net loss of 5,202 votes; his opponent, Mr. Wilson, gained 5,918 in 958 divisions and lost 418 in 148 divisions, a net gain of 5,500 votes.

INTENTIONALLY FRAUDULENT RETURNS

When the court of common pleas canvassed the returns of this election, the officers of the second division of the thirty-sixth ward were found guilty of intentionally making a fraudulent return: the tally sheets were bare of tallies, and Vare had been credited with seven too many votes while Wilson's return was five too few. Under this definition of what constitutes an intentionally fraudulent return, the election officers of 141 divisions are guilty of such offense, for in that many divisions the tally sheets showed no tallies and 12 or more votes were gratuitously added to Vare's majority over Wilson.

The law requires that votes be recorded on the tally sheets as they are counted, and each sheet contains clearly printed instructions for its use. In 614 divisions, nevertheless, no tallies were entered in support of the total vote returned for senatorial candidates. In these districts there exists no evidence that the votes were ever counted as required by law.

Registration books are filled out in duplicate for each election district. At the election one of these books is called the ballot check list and the other the voting check list. The law requires that as each voter receives his ballot a check be placed opposite his name in the column specified for the purpose in the ballot check list. When he casts his vote the same record is made in the voting check list. In addition to these two records the law requires that a list of voters be made, wherein the election officers shall inscribe the name of each voter as he appears and casts his ballot.

After an examination of the records of twenty election divisions selected at random from twenty different wards, the senate committee reported that "the making of these records was attended throughout by the grossest carelessness, that no real attempt was made to comply with the strict provisions of the law with regard to them, and that no reliable record exists of the persons who voted at this election."

The three records do exist, but they show violent discrepancies. In the twenty divisions examined, eighty-five persons were recorded as having voted without having received ballots; sixty-seven received ballots but were not recorded as having voted; 164 names were checked in the ballot check list but were not to be found on the list of voters; 137 names appearing on the list of voters were not checked as having voted.

Because of the discrepancies in the records of these twenty divisions the senate committee caused to be examined the voting check lists and the lists of voters for the entire city, in order to determine the extent of voting without registration. For twenty years election officers in Philadelphia have been required by law to examine the registration books before allowing any person to vote, and knowingly to accept the vote of a person not registered is an offense punishable by fine not exceeding $1,000, or imprisonment not exceeding five years, or both. Nevertheless votes of persons not registered were accepted by election officers in every one of Philadelphia's 48 wards. In one ward 110 such votes were cast and the names written in the list of voters. The total for the whole city was more than 2,000 ballots cast by or for persons who had not registered. In more than half of Philadelphia's 1,500 election districts the election officers are therefore subject to maximum penalties of $1,000 and five years each.

REPEATING

Another method of concealing the deposit of fraudulent ballots was revealed by the presence of 635 names each written a second or third time in the list of voters. Whether or not these persons cast their own first ballots cannot be ascertained, but it is certain that the election officers were implicated in the casting of all seconds. These officers evidently held that it was more reasonable to cover a stuffed ballot by entering a second time the name of a duly registered voter, with or without his consent, than to enter for the first time the name of a person who had not registered.

In many cases, however, the election officers either found it impossible or considered it unnecessary to write sufficient extra names in the list of voters to conceal all of the stuffed ballots. In 395 divisions the number of ballots in the boxes exceeded the number of names in the lists of voters, and in 699 divisions there were more ballots in the boxes than names checked on the voting check list. Each of these ballots is evidence of either fraud or criminal carelessness.

To determine whether carelessness might be the proper explanation of the discrepancies, the senate committee had the lists of voters examined for alterations and erasures. Five thousand two hundred and fifty-four such cases were found, many of them incomplete and disclosing frequent substitution of entirely different names or of persons of different sex. Such alterations cannot be explained by the necessity of correcting clerical errors.

In 38 divisions the lists of voters show groups of ten or more voters who are recorded as having appeared in alphabetical order. The law directs that the lists be current records of the names of voters in order of their appearance to vote. The senate committee held it possible that nine voters might honestly appear in strict alphabetical order, but that ten or more so recorded constituted evidence of deliberate fraud. In one division, for example, 36 names were entered in the list of voters in alphabetical order, but so many ballots were stuffed in the box illegally that the number found there still exceeded the number of names on the list.

In addition to alterations, erasures, and alphabetical groupings, one other instance of fraudulent listing may be cited. In one division where the voters' list contained a total of only 333 names, no less than 61 families appeared and voted as units. One hundred and fifty of the 333 names were arranged in these family groups.

The committee's opinion was that in about one division out of five the list of voters contained "persuasive evidence of having concocted to conceal the use of stuffed ballots."

BALLOTS COUNTED ALTHOUGH NEVER INSERTED IN BOX

An examination of the ballots in the boxes revealed numbers of ballots in such condition that they could not possibly have been inserted legally. Many, though marked, had never been folded and could not possibly have gone through the slot in the ballot box. Others had been folded in such a way that every dimension was greater than the width of the slot. These ballots were put into the box when the lid was open, either before the polls were opened or after they were closed. In 111 divisions 775 such ballots were found. It should be observed that these 775 were only those which bore clear evidence of having been inserted in some other manner than through the slot in

the box. Probably many more were stuffed without detection. In one division twelve names were found in the voters' list in alphabetical order, but only three of the ballots in the box bore physical evidence of having been stuffed. The only possible conclusion is that at least nine additional ballots were fraudulently inserted, though they could not be detected. The committee's examination of the ballots therefore led to the detection of only those which had been carelessly stuffed. Of those which had been carefully stuffed no estimate could be given.

NUMEROUS BALLOTS MARKED BY ONE PERSON

Many groups of ballots bore evidence of having been marked by the same person. The election laws allow a voter who desires assistance to call upon a regularly qualified voter of the district to aid him in the preparation of his ballot. It is a notorious custom in Philadelphia for political workers to force voters who have no disability whatever to accept "assistance," with the result that many ballots are marked by the same person and the secrecy of the ballot becomes a mockery.

Ballots which bore unmistakable evidence of having been marked in piles were clear indications of fraud on the part of the election officers, since a voter is given only one ballot. In one district ten sample ballots, printed on pink paper, had been marked, inserted into the ballot box, and counted for Vare. In each of 36 districts five or more ballots had a cross for Wilson stricken out and another cross inserted for Vare. These alterations could have been made only after the boxes were opened by the election officials.

Legal requirements for the printing, numbering and issuing of ballots are so commonly violated by the Philadelphia county commissioners that fifty divisions accounted for a total of 992 more ballots than the records show them to have received. The law requires that all unused ballots shall be accounted for and disposed of before the boxes are opened for counting. It is customary, however, in many divisions, for the used and unused ballots to be mixed by the election officers. In 144 divisions 18,954 ballots were not accounted for at all. In eight divisions ballots which should have been in the boxes were found returned as unused, and in 162 divisions some or all of the stubs and unused ballots were found in the boxes instead of in the return envelopes provided for the purpose. Full instructions for the return of unused ballots are printed in handbill type on these envelopes. It seems that unused ballots are often kept handy by the election officers while the counting is proceeding.

Several types of fraudulent practices often occurred in one and the same district. A few typical instances may be cited. In the first ward, thirteenth division, 700 ballots were issued to the election officers, of which 396 were found in the boxes and 104 returned as unused. Two hundred ballots were therefore unaccounted for. Three hundred and ninety-two votes were cast for Vare, and only 3 for Wilson. The presumption is that Wilson ballots were destroyed and unused ballots marked by the election officers and substituted for them. In addition, nine ballots bore physical evidence of having been stuffed and six persons were voted although they had not registered.

In the fourteenth ward, ninth division, 15 signatures had been forged by the registrars at the time of registration, and one additional signature had been falsified by some other person. By the recount, Vare lost 20

votes and Wilson gained 18. Twenty-four straight Republican ballots had been fraudulently cast, seven names had been altered on the list of voters, and six persons were on the list though they had never registered or even been registered.

In the eighteenth division of Mr. Vare's own ward the list of voters contained 48 names in alphabetical array at the end of the list, three repeaters, and four persons not registered.

One witness testified before the senate committee that fraud was very largely a habit among division leaders in Philadelphia, even when elections were not close, because the political worker "wants to see a fine return, over and against his going to the ward leader or even a higher boss and demanding a better city position."

MINORITY REPRESENTATION ON BOARDS UNUSUAL

Philadelphia elections are almost entirely in the hands of the "regular" Republican organization. Legal provisions for bipartisan election boards do not operate, and minority representation is very unusual. The election is so clearly a party organization affair that it is customary for other party workers to be substituted for elected judges and inspectors whenever convenient. In the election of November, 1926, only 25 per cent of the persons who signed the records as judges and inspectors were the duly elected officers.

In a brief submitted to the senate committee, counsel for Mr. Vare said:

> Those having any experience in the conduct of elections in Philadelphia know that in some polling places the voters come in groups of varying sizes, and when they come in groups, their names are not written in the lists of voters, nor are they always checked on the registration book. . . .
>
> At some time during the day when there is no one desiring to vote, the inspectors and the clerks make comparison of the entries in their books and then the books are made to correspond to each other. In doing so there is no fraud, no desire or intention to deceive the public or to corrupt the election. It is rather an honest attempt to comply with the law and to complete the records of that division so that the work of that particular election board may be scrutinized and found to be correct.

When tax receipts are issued to persons who do not pay taxes; when registrars forge signatures of young children and their deceased ancestors; when persons are voted who are not registered and registered voters have their ballots altered or destroyed; when votes are counted where there are no ballots and when ballots are cast by election officers for entire sections of the telephone directory, then it is not surprising that the books cannot be "made to correspond to each other." The work of election boards was "scrutinized" by the Reed Committee and was found not "to be correct."

NEW LOCAL GOVERNMENT REFORMS IN ENGLAND

BY WILLIAM A. ROBSON, PH.D., B.SC. (ECON.)

Barrister-at-Law, Lecturer at the London School of Economics of Political Science; Editor of the "Local Government News"

The Local Government Bill of 1929 works comprehensive changes in English local government. The financial changes made necessary by the new plan of de-rating are particularly significant. :: :: ::

ALMOST the whole of the present session of Parliament—the last before the general election—is being occupied by an elaborate scheme for the reform of various aspects of English local government. The Local Government Bill of 1929 is a very large measure, and consists of 125 clauses, and twelve schedules. The prefatory memorandum explaining its financial provisions runs into more than thirty-eight printed pages. The significance of the bill lies in the fact that it is the first general measure of reform relating to municipal affairs which has been passed since 1894, when the Local Government Act of that year set up the parish and district councils and abolished the then existing sanitary authorities.

There is, however, no real unity about the present bill. It deals with such diverse matters as the relief of destitution, roads and town planning, the registration of births, deaths and marriages, relief from local taxation, and the superannuation of officers. The bill is no worse for that; but there is no substance in the contention of the government that the provisions of the bill constitute a well-articulated system, each part of which is necessary for the proper working of the whole.

ONE-HALF, ORGANIZATION AND FUNCTIONS—ONE-HALF, FINANCE

About half of the bill is concerned with matters relating to administrative areas, functions, and authorities; the other half relates to local and central finance. So far as the structure of local government is concerned, by far the most important feature of the bill is the abolition of the boards of guardians and the transfer of poor law functions to the general municipal bodies—the county boroughs in the large towns and the county councils elsewhere. It may be difficult for American readers to realize the immense importance of the poor law in the social structure of England. It is important historically because the relief of destitution by a specially constituted authority has an unbroken record since the days of Elizabeth. It is important financially because every year at least £40,000,000 is spent on this service; and it is important from a social point of view because a very large number of the present recipients of poor law relief consist of self-respecting working-men and women who have been thrown out of employment by reason of the trade depression in certain industries, rather than through any fault of their own.

POOR LAW REFORM

The abolition of boards of guardians has been inevitable ever since the Royal Commission on the Poor Law reported in 1909. The minority report, which it is well known was the work of Mr. and Mrs. Sidney Webb, advocated strongly the abolition of the boards of guardians and the treatment of paupers according to need by the various departments of the general authorities such as public health, education, etc. Successive governments have toyed with the task of accomplishing this reform but the influence of the guardians has hitherto been too strong for them. The present government, despite many other shortcomings, is to be congratulated on having achieved this ungrateful task.

Part I of the bill gives effect to the proposals of the government by transferring the responsibility for poor law administration to counties and county boroughs. Each county and county borough council must, within a specified time after the passing of the act, submit for the minister of health's approval a scheme of the administrative arrangements to be made for discharging its new functions. The poor law will thus be transferred to authorities which already provide many services, such as tuberculosis, maternity and child welfare, mental deficiency, care of blind persons, and the medical inspection and treatment of school children, which overlap similar provision made by the boards of guardians for persons who are destitute.

Clause IV gives power to the council to deal with destitute, as well as other, persons by means of services which they already provide. It is left to the council to determine whether they will or will not avail themselves of this power, subject always to the fulfillment of their legal obligations in regard to the relief of destitution.

HIGHWAYS

The second main feature of the bill from the administrative point of view is the transfer of highway functions from the smaller authorities to the larger ones. The county councils will in future have transferred to them all the highway powers of the rural district councils and all the powers regarding classified roads in urban districts and non-county boroughs. The term "classified roads" refers to roads which have been designated as Class I and Class II by the minister of transport and for which a grant out of the road fund is paid. These roads constitute, roughly speaking, all the highways which are good enough for automobile transport. The net effect of the new bill will be to hand over to the county councils all the roads in their areas except residential streets in the smaller urban areas and towns. The large cities will continue to be independent administrative authorities for highway purposes. There are a number of provisions in this part of the bill which enable, and in some cases force, county councils to delegate their highway powers to the smaller authorities, but at the same time retaining financial and other responsibility. The object of this part of the bill is to ensure a more uniform and efficient highway administration and to spread the burden of road upkeep more evenly by enlarging the area of road administration.

This part of the bill also contains a number of provisions relating to town planning, as the minister of health realized at the last moment that the making of adequate provision in regard to highways plays an important part in town planning. Thus, county councils are to be made town planning authorities for the first time. These additional provisions are undoubtedly desirable, but the road clauses have been criticised on the grounds that the

county should not have been made the highway authority for nearly all the roads outside the large towns, just at the time when the rise of the motor vehicle has made the county an obsolete area for the purpose of highway administration. It is obvious that a larger unit of administration is required at the present time and there is a considerable body of opinion which would have been glad to see the great main roads handed over to a national authority.

ADJUSTMENT OF LOCAL BOUNDARIES

Part IV contains the Onslow Clauses, that is, provisions designed to give effect to the recommendations of the Royal Commission on Local Government contained in their second report, which was recently issued. In themselves they achieve little. But they provide machinery for obtaining a reorganization and adjustment of the boundaries of counties, county boroughs, and minor local authorities. Furthermore, they strengthen the powers of county councils and assist them to act in default of incompetent, or recalcitrant minor local authorities. It is impossible to quarrel with these timid clauses. Indeed, the real trouble is that they do not go far enough and leave untouched the main problems relating to the general structure of our local government system. Nevertheless, if these clauses are adequately worked, a great deal of improvement can be effected within the framework of the present system.

IMPORTANT CHANGES IN LOCAL FINANCE—DE-RATING

I come now to the financial part of the bill. This attempts a twofold object, namely; the de-rating of agriculture and industry, and the re-casting of the financial relations between local and central authorities.

Under present conditions, the occupiers of all premises and real estate are liable to contribute to local taxes, or, as they are called in England, "rates"; the only exception to this being made in the case of agriculture, which in recent times has been relieved of three-quarters of its normal liability. Now, under the new scheme, the government has relieved from liability to rates, three classes of property:

1. Agricultural land is relieved of its remaining quarter in respect of rates.

2. "Industrial hereditaments," that is, premises occupied or used as a mine, factory, or workshop are relieved of three-quarters of their liability.

3. "Freight transport hereditaments," that is, railways, docks, harbors, etc., used wholly or partly for rail transport purposes or for the shipping of merchandise, are relieved to a similar extent.

This part of the scheme has met with most violent opposition from the Liberal and Labor Parties. The aim of the government, as explained by Mr. Churchill in his budget speech, was to assist the heavy industries of the country and particularly those which are engaged in production for the export trade. It was for this reason that a distinction was made between industrial premises and those used for distributive purposes, retail commerce, and so forth. Furthermore, relief given to the railways is only granted on condition that they pass on to the users of certain "selected traffics" the amount by which they are benefiting. Thus, for example, if the railways are exempted from local rates to the extent of £6,000,000 a year, they will have to reduce their freight charges on certain specified classes of commodities so as to pass on this benefit to the producers of those commodities. "Selected traffics" include coal, coke, and patent

fuel, timber, iron or steel ore delivered to blast furnaces, and a series of agricultural commodities.

The main ground of criticism of these proposals is that they "relieve" prosperous industries such as artificial silk and automobiles, but leave the private resident and shopkeeper, in the necessitous areas where unemployment is high, paying rates at such high figures as 25 shillings or 30 shillings in the pound on the annual rateable value of premises. In other words, the critics of the government say that relief should have been given on a territorial basis to all occupiers in necessitous areas, whereas the government has given relief on a functional basis, and in many cases where it is not needed.

GRANTS-IN-AID RECAST

The loss to local authorities on account of de-rating will be made up to them by a grant from the national exchequer, and the government has taken advantage of this occasion to re-cast the whole of the system of grants-in-aid.

Briefly the scheme provides for the discontinuance, after March 31, 1930, of certain grants at present paid in aid of local services, and the payment to local authorities of an annual consolidated grant starting in 1930–31, which will take the place of the rate and grant income lost in consequence of the rating reform scheme and the discontinuance of the existing grants.

The new grant, called the "General Exchequer Contribution," to be paid each year as from April 1, 1930, in place of the existing rate and grant revenue, is composed of three amounts, namely:

(a) An amount equal to the total losses on account of rates of all counties and county boroughs;

(b) An amount equal to the losses on account of certain discontinued grants of all counties and county boroughs;

(c) An additional amount which, for each year of the first quinquennial period, is fixed at five million pounds.

The losses on account of the discontinued grants will be approximately:

Grants through the local taxation account	£9,191,000
Grants in aid of:	
Certain health services	3,881,000
Certain roads	2,790,000
	£15,862,000
Say	£16,000,000

The total amount of the general exchequer contribution in each year of the first quinquennium will amount approximately to £45,000,000, made up as follows:

1. The equivalent of the estimated total losses on account of rates	£24,000,000
2. The equivalent of the estimated losses on account of discontinued grants	16,000,000
3. Additional amount	5,000,000
Total	£45,000,000

It is proposed that the whole of the general exchequer contribution shall eventually be allocated among counties and county boroughs on the basis of a formula which has regard solely to the needs of each area and to its ability to meet those needs. For this purpose there is to be calculated for each area a figure of "weighted" population for each quinquennium, which shall determine the share of that area in the total sum available.

In order, however, not to produce too sudden a change in the existing revenues of local authorities it is proposed that the general exchequer contribution shall for the first quinquennium be allocated only to the extent of approximately one-third according to weighted population, the remaining two-thirds being allocated in proportion

to the revenues to be withdrawn. On each revision of the grant, one-third of the latter share is to be transferred to the basis of weighted population until the full scheme comes into operation in 1945, when the whole amount will be allocated on the basis of the formula for weighted population.

FACTORS IN WEIGHTED POPULATION

The rules for determining the weighted population provide that the basic factor of the calculation, namely, the estimated population of each county or county borough in the standard year (or, after the first quinquennium, the year prior to the beginning of each quinquennium) shall be increased with reference to four further factors, viz:

1. The proportion of children under five years of age to the population;
2. The rateable value per head;
3. The proportion of unemployed insured workers to the population;
4. The population per mile of public roads.

The first two of these factors are applicable to every county and county borough. They have been adopted as providing, in combination with population as proposed, an index of general needs and relative wealth and poverty. The third factor is only brought into operation as a further index of the need for assistance where the unemployment is abnormal. The last factor, which is applicable only to counties other than London, has been adopted as a measure of the spread of the population over large areas.

The method of employing these factors is briefly as follows:

1. The population is increased in the proportion by which the number of children under 5 years of age per 1,000 population exceeds 50. Thus, if the number is 80, the population is increased by the proportion which 30 bears to 50, *i.e.*, 60 per cent. Fifty has been adopted as representing with few exceptions the minimum proportion of children found in any area.

2. For the rateable value, the datum line is fixed at £10 per head (the rateable value for this purpose is the reduced rateable value as it will be after October, 1929). Where in any county or county borough the estimated average rateable value per head is less than £10, the estimated population is increased in proportion to the deficit below £10. Thus a town with a reduced rateable value of £6.3 per head will have an addition of 37 per cent made to its population. As in the case of the children factor, the datum level of £10 has been adopted as being near the limit of the range and so providing the loading in the great majority of cases.

3. As already explained, the loading for unemployment operates only where unemployment is abnormal, the datum line for this purpose being a ratio of unemployed insured men and women to total population of 1.5 per cent. The average value of this factor for the whole of England and Wales at the present time is 2.2 per cent.

This factor, as also the one which follows, is intended to operate on the population as increased by the two factors mentioned above, the reason for this cumulative operation of the factors being that for a given degree of unemployment or sparseness of population a larger increase of grant should be given the poorer the area. The mere numerical excess of this factor above 1.5 per cent would not provide a greater loading in extreme cases than about 8 or 9 per cent, and it is, therefore, proposed that the loading to be adopted in this case should be a multiple of the excess over 1½. At the outset of the

scheme, when only about one-third of the money will be distributed according to formula, it is proposed that this multiple should be 10. Thus, with an unemployment percentage of 5.7, the loading would be 10 x (5.7—1.5) = 42 per cent. This multiple will, however, be reduced in the future to 3.2.

(4) The fourth or "density" factor, which applies only to counties outside London, is the population per mile of public road.

The aspect of the bill which has been most violently opposed has been the abolition of the percentage grants in regard to such services as maternity and child welfare, the welfare of the blind, the tuberculosis service and the treatment of venereal diseases. The government has in the past paid 50 per cent of the approved expenditure of the local authority. This device has proved extraordinarily effective as a means of building up these services and of stimulating local initiative and progressive action. There is a great deal of uneasiness among the friends of local government in all the political parties as to the very serious disadvantages which may result from the abolition of the percentage grant system. Under the new scheme local authorities will automatically receive their grants according to the formula, regardless of whether they carry out their social services efficiently or not. The percentage grants at present paid in respect of such services as education, police forces, etc., will remain unaffected by the new arrangements.

NEW YORK MULTIPLE DWELLING LAW

BY LAWSON PURDY

On the closing day of the 1929 session the New York legislature passed the new multiple dwelling law to replace the famous tenement house law of 1901 in New York City. The law of 1901 is still in effect in Buffalo. The new measure is not so radical as the one that failed last year. Mr. Purdy was a member of the commission which drafted the new law. :: :: :: :: :: :: :: :: ::

The legislature of New York in 1927 provided for the appointment of a commission to examine and revise the tenement house law which applied to the cities of New York and Buffalo. The commission consisted of four senators, four assemblymen, and three citizens appointed by the governor. The bill prepared by the commission failed of passage, the life of the commission was extended, and provision was made for the appointment of three additional citizens. Thereafter the enlarged commission proceeded with its work and prepared a bill which is now law.

The present tenement house law was enacted in 1901. Some of the evils it was intended to remedy and which it did remedy were ineffective administration, the inadequacy of open spaces and sanitary conveniences, and excessive fire hazards. The law of 1901 is applicable to all buildings occupied or arranged to be occupied by three or more families living independently of each other and doing their own cooking on the premises. This is the definition of a tenement house and in tenement houses thus defined more than two-thirds of the population of New York were housed in 1901 and are housed

today. People of all grades of wealth, from the poorest to the richest, live in tenement houses.

THE 1901 LAW

By the legislation of 1901 there was created in the city of New York a separate department known as the tenement house department which was given substantially exclusive jurisdiction over the construction and regulation of tenement houses. When a certificate of occupancy has been given by the tenement house department the tenement house for which the certificate has been issued is a "certified" house and no question can be raised thereafter as to its plan or construction. It cannot be occupied until such a certificate has been issued.

The law of 1901 has been the basis for much similar legislation throughout the United States. It has served its purpose well. Some of its provisions are that there shall be no room without windows, of an area equal to 10 per cent of the floor area of the room, opening upon the street or upon a yard or court of at least the minimum dimensions required by the law. No tenement house may exceed in height one and one-half times the width of the widest street on which it faces. A building more than six stories high must be fireproof. From every apartment there must be two means of egress, one by the stairs and the second by similar stairs or fire-stairs or by fire-escapes. If the building is over four stories high the stairs and the walls surrounding the stairs must be fireproof and the doors must be fireproof. If the building is over four stories high the first floor above the cellar must be fireproof and unpierced. There are adequate provisions for fire-retarding of buildings of four stories and less in height. Every apartment must have a water closet which may be entered without passing through a bedroom. The protection against fire afforded by houses built since 1901 is proved by the fact that no person has lost his life by the burning of the building and 3,000,000 people live in such houses today.

While the size of courts and yards is not what one would wish, they were required to be considerably larger than under the previous law. Some idea of the size of such open places may be judged by the description of a six-story building which is the basis taken in the law for courts. If a building is less than six stories, the size of the courts is diminished; if higher than six stories, the size is increased. A building six stories high is generally about 60 feet in height. In the city of New York most of the secondary streets are 60 feet in width; thus there is a forty-five degree angle of light in the front. The yard of a six-story building must be 12 feet from the rear of the building to the rear of the lot, and must extend entirely across the lot. If two such houses are back to back, the minimum space between them must, therefore, be 24 feet. A court on the lot line extending to the street or to the yard must be half as wide as the yard; thus for a six-story building the width of an outer court would be 6 feet. If a similar building with a similar court were constructed next to it, the width of the two courts would be 12 feet. A court between wings of the same building, extending to the street or to the yard, must be as wide as the yard, or 12 feet. An interior or box court must be as wide in each dimension as the width of two yards, or 24 feet, and an inner court on the lot line must be half as large as a box court, namely, 12 feet by 24 feet. If one compares a house built under this law of 1901 with the house built prior to 1901, the new house appears to be a palace of light.

REASONS FOR REVISING THE LAW OF 1901

During the last twenty-seven years the tenement house law has been amended about one hundred fifty times. Many of the amendments were inserted to meet special cases and to make compliance with the law somewhat easier or less expensive. The old definition of a tenement house which has endured for sixty years and over, that of a building in which three families or more live independently and do their own cooking, served well until cooking by gas and later cooking by electricity had been invented and servants' wages had been multiplied by four and rents had been multiplied by three. People who formerly demanded and used apartments of eight rooms or more and kept one or more servants now occupy apartments of four rooms or less and keep no servant.

The erection of new buildings almost stopped from 1914 to 1921. There was a severe housing shortage. Old single-family houses could be altered under the building code, not the tenement house law, for non-housekeeping use. Old single-family houses could be adapted without structural alteration for occupancy by people who were not supposed to cook but who did cook on the premises. Hotels were erected, called apartment hotels, which could exceed in height and in lot coverage a tenement house, could have windowless bathrooms and windowless stairs, and therefore be erected to house more people for less money than a tenement house. When plans for such hotels were filed, the architect or builder was required to make an affidavit that no housekeeping was to be done on the premises. Leases were made commonly by which the tenant was required not to cook.

This statement applies to the hotels, to the altered single-family houses, and often to the old houses not structurally changed. Prospective tenants were invited to examine the apartment, observe the sink and refrigerator and gas or electric outlet, and then invited to sign a lease by which they obligated themselves not to cook.

By 1927 so many thousand people were living in houses of various kinds in which cooking was being carried on contrary to law that the enforcement of law seemed almost impossible. An autocrat who did not live in the city might have enforced it perhaps. It is questionable whether such a person could who traveled about the town without police protection.

For a number of years the Tenement House Committee of the Charity Organization Society, the Housing Committee of the Brooklyn Bureau of Charities, and the few others interested in maintaining the integrity of the tenement house law had a very hard struggle to prevent objectionable amendments and to encourage any kind of enforcement. The tenement house department had been hampered by inadequate appropriations and an insufficient staff. On the other hand, the real estate boards were besieged by members who urged amendments to the tenement house law of various kinds which, if enacted, would have weakened the law seriously. At this juncture the real estate boards recommended the appointment of the commission. The commission had before it the task of preserving the standards of the present law and meeting the demands of those who wished to cheapen construction.

THE MULTIPLE DWELLING ACT

The task of the commission was set for it by the demands of those not satisfied with the present tenement house law. There were those who

wished to erect high and bulky buildings as apartment hotels with fewer stairways, without windows to the outer air, with windowless halls and windowless bathrooms. The contention was and is that with mechanical ventilation bathrooms can be better ventilated than by windows, and that electric lights are more efficient than daylight. Owners of houses which had been altered under the building code wanted them legalized for housekeeping. Owners of old single-family houses wished an inexpensive method of alteration for tenement house use. The demand for cooking anywhere or everywhere was universal.

On the other hand, those who had a primary interest in the welfare of the poorer people of the community contended that windowless bathrooms for them meant dirt and disease; that unlighted stairs and halls were a social menace and that the altered old houses constituted a serious fire hazard. Moreover, for all buildings they contended that more light and air made houses better investments, better for both owners and tenants. They regarded the limit of height of one and one-half times the width of the street for fireproof buildings as being too high rather than too low. At all costs they wished to preserve the general structure of the tenement house law and its administration by a separate department.

OLD DEFINITION ABANDONED

One of the first conclusions of the commission was that the old definition of a tenement house which depended upon cooking had to go. Unlawful cooking was too easy. For that reason the title of the act was changed to Multiple Dwelling Law. Under this law cooking will be permissible in any multiple family dwelling which conforms to the law in all other respects. The rules for construction, for height, for bulk were made the same for the tenement house and the apartment hotel. A distinction was made in favor of transient hotels, but the effort was made to lay down rules for construction of the transient hotel and the other multiple dwellings as nearly as possible alike and to make the differences such that a builder would not be tempted to call his building a hotel when, in fact, it was to be used as a tenement house.

One of the most difficult problems was to meet the demand of those who wished to build the apartment hotel, which can now be built to a greater height than a tenement house and covering more ground than a tenement house and, at the same time, secure adequate light and air. The plan of the multiple dwelling law is to increase the area of the yard and courts and to allow a slightly greater height. The increase in the yard and court dimensions for a six-story building is about 25 per cent over the dimensions of the present law. The new yard is 15 feet as compared with 12 feet. The outer court is 7½ feet instead of 6 feet. An outer court between wings of the building is 15 feet instead of 12 feet. On a 60-foot street the present tenement house may be 90 feet high, the yard at least 15 feet in depth throughout the entire height of the building, and the courts based on the yard width.

SETBACKS PROVIDED

The multiple dwelling law requires the yard to be 20 feet deep at the 90-foot level; above that level the depth of the yard must increase in the ratio of three inches for each foot. Above the 90-foot cornice line on the street front, the building must set back from the street in the ratio of three to one. The maximum height is 3 feet plus

one and three-quarters times the width of the street and never over 175 feet exclusive of a pent house set back on all sides. On a 60-foot street, therefore, the maximum height is 108 feet. In effect, we have allowed two additional stories and required those stories to set back in return for an increase of 33⅓ per cent in the dimension of the yard. A careful study shows that rooms on the lowest stories will get about the same light on the street front as under the present law, and considerably more light in rooms opening on the yard and courts.

In non-fireproof buildings stairs, halls, and water closets must be lighted by windows of required size. In all fireproof buildings with passenger elevators water closets supplementary to those required by law may be mechanically ventilated and in such fireproof multiple dwellings in which every room opens directly upon a public hall, water closets may be mechanically ventilated. In such buildings stairs and halls may be without windows. The number and width of stairs are determined by the number of rooms on each floor instead of by the number of apartments as at present. The reason for this change is that the size of apartments is, on the average, much less than formerly. Outside fire-escapes are not required for fireproof buildings, but two interior stairs are required except for buildings not exceeding six stories high with not more than twenty rooms on a floor using that stair.

Transient hotels in which there are six or more power passenger elevators, built in a block zoned exclusively for business, may be erected to any height and to any bulk permitted by the local zoning ordinance.

Houses heretofore altered in accordance with the building code are required to do very little to make them more safe. Houses hereafter altered are required to have water closets with a window or skylight and to be safeguarded adequately against fire. Lodging houses and rooming houses have some requirements in excess of those now contained in the local ordinance.

The tenement houses erected prior to 1901, called old-law tenement houses, are subject to some additional regulations for sanitation and fire protection.

The provisions for the enforcement of the law are strengthened.

CONCLUSION

The problems presented to the commission have been solved. The solutions offered will not please everyone. To one who, like myself, believes that no building should exceed the width of the street in height and no window should have less than a forty-five degree angle of light, the provisions for light and air seem inadequate and they are far less than should be adopted by any city which can by any diligence do better, but for the city of New York, as it has been allowed to grow, I believe the provisions of the multiple dwelling law represent a solution of pressing problems which must be solved, and do afford more light and air for all houses over four stories high and adequate light and air for houses less than four stories high, and that the bill presents rules for construction that are practical and will be good for both owner and tenant.

A NORTH JERSEY METROPOLITAN DISTRICT—NONSENSE OR STATECRAFT

BY PHILIP H. CORNICK
National Institute of Public Administration

Northern New Jersey is really one urban territory with a population of three millions, sadly in need of comprehensive transit facilities and other public improvements, but without a common government able to surmount the legal and financial obstacles to common action. ::

A POPULATION of approximately three millions, or about that of Chicago, the second city in the United States in number of inhabitants; an area of more than 2,200 square miles, or over five times that of Los Angeles, which is the country's largest city from the standpoint of acreage; assessed valuations of ordinary real estate, exclusive of railway holdings, in excess of three and a half billions of dollars—considerably more than that of any city on the continent with the single exception of New York City: such are three of the outstanding characteristics of the North Jersey Transit District which was given a shadowy existence as a governmental unit by act of the legislature of New Jersey in 1922.

The reason for its creation, however, is not to be found in its population, its area, or its taxable wealth. It lies rather in a state of mind which is common to many of its inhabitants. Just as every devout Mohammedan turns his face toward Mecca at least once a day, so a large percentage of the inhabitants of the North Jersey Transit District turn toward New York City. The ordinary Mohammedan, however, undertakes a pilgrimage to Mecca once in a lifetime. Many of the Jerseyites, on the other hand, are not content with so perfunctory an evidence of their devotion. Every morning of every working day in the year, three hundred thousand of them—one-tenth of the entire population of the district—journey to the shrines of big business on Manhattan Island. Every night the tide of humanity flows back. As though geared to the rising and the setting of the sun, steam trains, rapid transit trains, trolley cars, buses, private automobiles, steamers, ferry boats, private motor boats—and more recently, even aeroplanes—converge on the center in the mornings and radiate from it in the evenings toward the outer boundaries of the district fifty miles away. Every year the individual vehicles are becoming more crowded; every year the number of vehicles demanded grows; every year the pressure on the existing facilities for mass transportation, and on their terminals, becomes more intense; every year the devout pilgrims are called on for greater sacrifices in comfort, time and energy.

THE PLIGHT OF THE HERETIC

But hard as the lot of the devout pilgrim is, that of the heretic is even more difficult. The decades of New York mindedness have resulted in a transportation system which leads to New York and to nowhere else. Within the district other shrines have grown up: Newark, an important insurance, banking, retail and manufac-

turing center with a population of almost half a million; Jersey City, Paterson, Elizabeth, Bayonne, Passaic, Hoboken, Perth Amboy, New Brunswick, Bloomfield, Rahway and Kearney, whose industries draw their daily streams of pilgrims even from New York City; the high-class suburban residential communities of Englewood, Montclair, Summit, the Oranges, Plainfield and Morristown; the famous resorts of Asbury Park, Atlantic Highlands, Long Branch, Rumson and Shrewsbury. All of these, too, have their devotees, and woe be to those unfortunate dissenters who live on one of the radial lines leading to New York City and would make obeisance at an altar located on another of those lines. In a great number of cases, they find it simpler and easier to journey into New York and then out again to their destination, rather than to cross the short distance intervening between the radial lines by the available circumferential means of travel.

With these facts in mind, it is not difficult to understand why the legislature empowered the commission which was created by the act of 1922 "to study and report upon the best plan or plans to be followed in providing a comprehensive scheme of rapid passenger transit between the several communities in the district, as well as between such communities and the city of New York." The "several communities" so casually disposed of in the act numbered 265; they lie in nine counties; they range in size from Newark, which ranks fifteenth both in population and in assessed valuations among all the cities of the country, down to the townships, a few of which are still almost wholly rural in character.

STUDY BEGAN IN 1922

Unfortunately, no appropriation was made available for the preparation of the plans in 1922, nor in the year following, Nevertheless, studies were carried out by the commissioners, reports were made to the legislature, news releases were given out to any newspapers which would publish them, and speeches were made before any organization that could muster a corporal's guard of listeners. This work bore fruit in appropriations for the fiscal years from 1924–1925 down to the present time, and an interesting series of studies has resulted.

The traffic census of 1924 outlined the scope of the problem because it showed for the first time not only the number of commuters who journeyed back and forth between their homes in New Jersey and their places of business in New York City, but also the location of those homes and of those places of business, and the numbers of facilities resorted to in the journeys between them. In the following year, the commission outlined the physical features of a comprehensive scheme for interstate and intrastate passenger transit.

THE INTERSTATE LOOP

The first step in the proposed physical plan was to be the construction of an interstate loop. The New Jersey portion was to intercept all commuting lines at points beyond the present congested terminals; the New York portion was to deliver and collect the commuters at a series of stations conveniently located along the backbone of the business section of Manhattan Island between 59th Street on the north and the Battery on the south. It was estimated that the completion of the proposed double track loop and two-way operation would reduce both the running time and the number of intermediate transfers between place of residence and place of business for a large percentage of the daily riders. By successive steps thereafter branch

lines connecting with the loop were to be extended out into the district, chiefly along the existing rights of way owned by the railway companies; and the trains from these branches were to run through direct to the delivery section of New York City, thus making it possible ultimately for a large number of commuters to travel between home and office without change. Furthermore, outer belts were planned which would have provided convenient means of travel between the communities within the district itself.

The completed project would have comprised six hundred miles of rapid transit lines and fourteen new single track tunnels under the Hudson River; would have provided adequate means of intercommunication between all parts of the district, and between those parts and Manhattan Island; and would have required an estimated expenditure over a twenty or twenty-five year period of not less than three quarters of a billion dollars.

LEGAL AND FINANCIAL DIFFICULTIES

The district commissioners now found themselves with a white elephant on their hands. They had succeeded first in proving that what had previously been looked on as a group of unrelated little problems, each affecting a separate section of the district, was in fact one big problem affecting the district as a whole. They had had no difficulty next in providing a plan of construction which would solve that problem, and which presented no insuperable physical obstacles. So far, so good. But three quarters of a billion dollars is a lot of money, whether it is to be expended in one year or in twenty. Some effective organization with ample legal authority to find that money and to administer its expenditure had to be created.

With the same energy they had shown in the other phases of their work, they set out to formulate the legal and financial plan. They soon found what other explorers in the field of government have discovered—that it is easier to plan a public work than to find an equitable method of apportioning its costs among the beneficiaries; that it is easier to bridge or tunnel a river than to pierce the state boundary line which may happen to run down the middle of that river; that it is easier to achieve multiple-unit control in train operation than to accomplish multiple-unit control with 265 municipalities.

The result of this discovery on the attitude of the commission itself may be illustrated by paraphrasing the successive reports to the legislature. The report of 1925, which embodied the results of the traffic census, said in effect, "Here are the facts about the situation which we have discovered." The report of 1926 said: "We transmit herewith the engineering features of a comprehensive plan for passenger transit." Up to that point, the commission had felt sure of its ground. Now note the change which occurred in its report of 1927, which embodied its studies in the means of financing, and the opinion of its counsel relative to district organization. Instead of saying, "Here are the facts," or "We submit a plan," the commission contented itself with saying, "We submit a report of our activities," and with recommending certain tentative conclusions based on the legal and fiscal studies to the serious consideration of the legislature itself and of the residents of the district. It would be an interesting study to ascertain how many other public bodies dealing with analogous problems have experienced a similar loss of self-confidence as their labors progressed from the measurable objective elements in their problems, such

as numbers of commuters, cubic yards of earth to be moved, or tons of steel to be laid, to the imponderables involved in a consideration of the juridical and psychological factors surrounding all human institutions for collective effort.

Up to this time, only one change in the personnel of the original commission had taken place. The same seven men who had taken part in drafting the original act, and in prevailing on the legislature to pass it, and who had carried on the work for two years without the aid of an appropriation, were still in active service. One of the devoted seven had withdrawn in order to accept appointment as counsel, and the vacancy thus created was filled by a man who was selected by the commission itself, and who was then prevailed on with some difficulty to accept the appointment at the hands of the governor. It was still a case of the office seeking the man. Regardless of what the enabling legislation said, the commission during this period was in effect a self-perpetuating body dominated by a community of interest. Within the past two years, this situation has changed. Three vacancies due to resignations or to expiration of term have been filled without deference to the wishes of the remaining commissioners. The terms of two of the four survivors of the original group expire this year, and the probability that they will be reappointed is negligible.

THE FUTURE

Here, then, was the situation in which the remnant of the old guard on the commission found itself when the time came for its report to the legislature of 1929. It had worked for seven years on a public problem without hope of reward, and with a devotion born of civic spirit. It had sought vainly for some simple solution of the problems of district organization and financing. Now it decided to point out to the legislature, in what might be its last report, the one sword which it believed capable of cutting the Gordian knot in which the existing law had entangled the problem of regional improvements. It marshalled its facts concerning the social costs in time, in money, in inequity, and in inefficiency, which were the fruits of that law. In support of its arguments, it cited the history of other bodies which had been charged with the duty of providing regional improvements within the district—the sewerage, water supply and tunnel commissions, no single one of which had been able to achieve its purpose in less than twenty years of turmoil and litigation. It showed why the clumsy financial devices worked out by compromise for use by those commissions could not be employed in connection with rapid transit construction. Finally, it made the bold assertion that adequate planning for a comprehensive transit system was impossible unless all other essentials of urban land utilization were combined with it. Among those essentials for northeastern New Jersey, the report specified regional water supply systems, regional sewerage, and regional meadows reclamation—all of which are at present in the hands of special state commissions—and subdivision control, which except in one or two municipalities, is not being exercised at all. It proposed, therefore, as the prerequisite to transit construction, the conversion of the North Jersey Transit District into the North Jersey Metropolitan District, to be governed by an elected commission, that commission to have financial autonomy, a separate debt limit, authority to levy taxes and special assessments, and power to construct, finance and operate public improvements of a regional nature.

Admirers of Lewis Carroll remember with delight his lines:

> "The time has come," the Walrus said,
> "To talk of many things:
> Of shoes—and ships—and sealing wax—
> Of cabbages—and kings."

They hail it as a gem of purest nonsense. Admirers of O. Henry, on the other hand, remember with equal delight his use of these lines as the plot of a novel, and his success in proving that the apparently unrelated subjects cited by the Walrus worked together to determine the fate of a nation. When the North Jersey Transit Commission combined sewerage, water supply, meadows reclamation and subdivision control with rapid transit, was it writing nonsense or molding history? Time alone can tell. In any event, a joint resolution providing for a commission to study the entire problem of regional government in New Jersey is now before the legislature in that state.

BOTH SIDES WIN—WORCESTER ELECTRIC RATE CASE

BY JOHN BAUER
Director, American Public Utilities Bureau

In the Worcester case the master's findings nullified the Massachusetts traditional rule of prudent investment and surpassed the Supreme Court in consideration paid to reproduction cost. :: :: ::

On February 11 the master appointed by the federal court handed down his findings in the Worcester Electric Light case, a matter of wide public interest for the past two years. It involves not only sharp rate reductions ordered by the Massachusetts department of public utilities, but also the fundamental basis of valuation,—whether "fair value" for rate-making under Massachusetts conditions can be differentiated from the general standards laid down by the Supreme Court of the United States.

This famous case began in September, 1926, when through the efforts of John H. Fahey, publisher of the *Worcester Post*, petitions were made to the department of public utilities to reduce the rates charged to domestic and commercial users. After sharply contested hearings, the department ordered the reduction of rates from a maximum of 7 cents per kwh. to 5 cents, effective June 15, 1927. The order was based, in part, upon the "fair value" determined largely in accordance with the Massachusetts rule of prudent investment, and not in accordance with the usual principle of reproduction cost, less depreciation. The company promptly moved to the federal court for an injunction against the order, on the ground that the rates ordered would be confiscatory. The injunction was granted, on condition, however, that the difference between the maximum of 5 cents and the rates charged by the company would be impounded for the benefit of the consumers until the final determination of the proceedings.

EACH RATE GROUP JUDGED SEPARATELY

In his findings, the federal master, Henry E. Warner, found that the rates

were adequate for the service covered by the order. Upon the matter of valuation, however, he sustained substantially the company's contentions in regard to the "fair value" upon which it is entitled to earn a return, and as to the rate of return. He found against the company specifically in respect to the allocation of costs and of return required between the different classes of service. While he found that the company would make less than 6 per cent upon the fair value employed in the entire business, it would earn over 8 per cent at the maximum rate fixed by the department upon the part of the property allocated to the particular classes of service affected by the order. He refused to judge the rates on the basis of the total return upon the total property, and upheld them because upon proper allocation they would bring an adequate return upon the value properly chargeable to the domestic and commercial groups of consumers.

This finding has special importance for the large class of domestic consumers, in that it fixes their right to be treated separately as a class, and that their rates are properly fixed according to the cost of furnishing their particular service. If a company, therefore, receives an inadequate return as a whole, but if its domestic service is fully compensatory, it cannot maintain excessive rates upon the domestic business to make up the inadequacy of return on its other sales. If this rule were generally applied throughout the country, it would probably result in radical reductions in domestic rates and, in many instances, in upward revision of unprofitable, competitive rates. There is reason to believe that power rates have often been fixed, because of competition, at points below the cost of service, at which they are not properly compensatory; and that the losses are made up by excessive rates paid by domestic consumers, whose business is not subject to competition.

MASSACHUSETTS RULE REJECTED

The finding sets aside the contention that the Massachusetts rule of prudent investment should be taken principally as the basis of fair value, as distinguished from the federal rule, which would include also the reproduction cost of the properties. In Massachusetts there has been strict regulation of capital issues for many years and rates have been fixed generally at a level to permit the companies to pay regular dividends upon the capital stock issued under public control. This practice was followed during and after the war, to meet the need of rate increases, and it was to be applied also for the determination of reductions. It was regarded as a special Massachusetts policy.

Because of the special circumstances and the long-established practice of rate procedure—although other relevant matters had been taken into account by the department—the public authorities in the Worcester case contended that prudent investment should be taken as the dominant factor in the determination of fair value. This contention was rejected. The master followed the so-called federal rule. Moreover, as we understand that rule, he went further in the acceptance of reproduction cost than has been fixed directly by the Supreme Court decisions. As to valuation, the master speaks as follows (italics ours):

> Counsel for the defendants contend that there has been established in Massachusetts a practice and method with regard to regulation of public utilities by which the determination of the rate base upon which fair return is to be earned is to be largely affected, if not practically controlled, by the so-called prudent investment theory, and that the constitutional right of the utility is

limited, or affected thereby, or must be interpreted with reference to that situation.

The opinion of the statutory court rendered in connection with the issuing of a temporary injunction seems to me to have disposed of this question adversely to the contention of the defendants.

If the question is still open before me I am unable to agree with counsel for defendants.

The question to be determined in this court is the interpretation and application of the rights of the utilities under the constitution of the United States.

The decisions of the Supreme Court, which are controlling on this court, have clearly established the constitutional right of a utility to be protected against regulation which will prevent it from earning a return based upon the present value of its property. *This constitutional right is a restriction on the power of the state to regulate, and I am unable to see that the restriction is any less effective against a regulation by definition or determination of the rate base, than it is against a regulation by definition or determination of the rate itself.*

To hold that a state in the exercise of the power of regulation may substitute something else for the value of the property, which has been determined to be the measure of the constitutional protection, would seem to me to nullify the protection, even though that something else be the amount prudently invested, for, ex-hypothesi, the amount of prudent investment differs from the present value of the property or no question arises. The suggestion that the prudent investment theory is only a means of determining the present value of the property lacks reality, for it is avowedly a means of escaping from taking present value as the rate base.

It may well be doubted whether the exercise of the regulatory power by the Massachusetts legislature purports, or was intended, to have any bearing on the interpretation and application of the right of the utility to protection under the Constitution of the United States. It may be conceded that the legislature intended to restrict the issue of stock in excessive quantities, and at unduly low prices, without conceding that the constitutional protection is affected thereby.

Whatever the purpose or the intent of the state legislature or state regulating bodies may be, it seems to me that it is clearly limited, restricted and controlled, by the constitutional right of a utility to be protected in the use of its property. It is the right to the property and not some substituted conception which is protected by the constitution.

In my opinion the right of the plaintiff to be protected against the enforcement of rates giving less than a fair and reasonable return upon the present value of its property used in rendering the service is not affected by the acts of the Massachusetts legislature or regulating commission, and I so rule. . . .

I find and rule that the plaintiff is not estopped to claim the present value of its property as the rate base.

Both the state and the company filed objections to the master's report. The company objected, particularly, against the allocations made to the domestic and commercial rates, and the finding that the rates fixed by the department are not confiscatory. The state objections include the finding in regard to the value of the property as a whole, and that 8 per cent is a fair and reasonable rate of return. The state has filed a petition asking for the dismissal of the suit.

It is expected that the findings of the master will be approved, and that neither side will appeal. The state has won the rates; the company the valuation. From the broad public standpoint, however, it is unfortunate if the issue of valuation is not carried to the Supreme Court. This involves much more than the particular case. It goes to the basic question whether a state can set up a comprehensive system of rate control, including a definite basis for administration and exact dealing with investors, or whether it must continue permanently with the present undefined rate base, which is financially unsound and cannot be satisfactorily administered.

ARE THE STATES HELPLESS?

This same question is before the Supreme Court now in the St. Louis and O'Fallon case—involving the recapture of excess earnings under the

1920 Transportation Act. The Interstate Commerce Commission has adopted special provisions for a fixed rate base in dealing with railway rate procedure. It distinguished the railroads from ordinary utilities, and contends that it has provided for the fair value of the railroads in view of their economic character and the statutory plan established by Congress. The companies insist that "fair value" consists of reproduction cost, less depreciation, of the properties. The question is, whether the basis of "fair value" for the railroads can be fixed as a matter of legislative policy, or whether the basis must be left always undefined and variable, according to price fluctuations. The same question arises as to state powers in dealing with local utilities. Can a state lay down a comprehensive system, as Massachusetts presumably had done, or must it continue permanently with undefined and unsound standards? This is a first-rate question which might well have been carried to the Supreme Court in the Worcester case. Some time or other it must be faced squarely and decided as a matter of law.

In the opinion of many close students of regulation, the Supreme Court has never fixed rigid requirements for the determination of fair value. On the contrary, it has stressed repeatedly that fair value must be based upon the facts and circumstances of each case. There is nothing in its decisions which would prevent the consideration of the particular and important fact that there has been a special Massachusetts policy, established by law many years ago, and carried out through a long period of systematic rate administration. The master doubts whether any such outright policy had been provided by law; but if it had, he frankly states that it would have exceeded the power of the legislature, and could not limit the rights of a company in the determination of "fair value."

REPRODUCTION COST UNWORKABLE

If, as the master holds, the fact of established state policy carried out through administrative machinery, cannot be considered in the determination of fair value, then the problem of state regulation for the future looks indeed hopeless. If actually, according to the master, fair value must be predicated primarily upon the reproduction cost, less depreciation, of the properties, the states will be unable throughout the future to put regulation upon an administrable and financially sound basis. It requires no abstruse economic analysis to demonstrate that rate-making based upon reproduction cost is an unworkable system; that it breaks down in administration, because of the large number of properties, the greatly varying conditions, and constantly shifting prices. Nor does it require intricate thought processes to understand that reproduction cost, under the prevailing financial structures of the utilities, is financially unsound; that because of the large proportion of fixed-return securities, it produces inordinate profits to the stockholders during rising prices, and inordinate losses during falling prices. If reproduction cost were systematically applied, a 40 per cent decline in prices during the next two decades, similar to the decline following the Civil War, would result in wrecking a large proportion of the utilities; would produce widespread receiverships, and would strangle the entire industry through the loss of credit,—not because of lack of demand for the service, but because of the unsound basis of rate-making.

So far as fundamental policy is concerned, reproduction cost is simply an economic absurdity. The Supreme Court, however, has never stated that

rate-making must of necessity be based upon such a system. It has never declared that reproduction cost is even the dominant factor in fair value; it has merely stated that a company is entitled to a fair return on the fair value of its property dedicated to the public service, and that in the determination consideration shall be given to all relevant facts and conditions, to the end that every company be treated justly. While in most instances, under present conditions, reproduction cost doubtless is an important element, particularly where no explicit state policy had been established to make rate-making definite and effective, this does not mean that inexorably a rigid doctrine must be followed in the future.

In our judgment, as we have read many hundreds of court decisions relating to fair value, the real difficulties in dealing with the subject have arisen with masters and the lower federal judges, and not with the Supreme Court of the United States. The latter body, up to date, has not made any decisions which, as we see the problem of regulation, will hamper the states in their attempt to put their houses to order with respect to the exceedingly important problem of regulation.

The states, we believe, can proceed to reconstruct the system of regulation and to establish a rate base that meets the requirements of financial stability and effective administration; but, of course, they must deal fairly with the companies, and not subject them to confiscation. The Supreme Court is the last body in the world—as we have studied its decisions—which will interfere with the development of sound policy by the states in dealing with recognized public interests.

THE RATE OF RETURN

An interesting side light appears in the master's finding of the rate of return,—that the company is entitled to 8 per cent. But, upon what grounds, that particular percentage?

If reproduction cost, less depreciation, is to be the measure of value, fluctuating with changing price levels, then, certainly, the rate of return should vary also with market conditions or the change in the cost of money. While it is true that in general the present level of construction costs is materially higher than before the war (although this does not necessarily apply to electric plants, wherein great technical advances have taken place), there has been no such increase in the rate of return. The cost of money now is no greater than before the war; a fact that should receive judicial recognition. Formal proof is readily available. Before the war, 6 per cent was held not to be confiscatory or unreasonable. Why, therefore, is 8 per cent necessary now, when the cost of money is back to the pre-war rates?

It is true that during the war and for about three years later, the cost of money as well as the cost of construction was far above pre-war levels. Construction still remains high, but the cost of money has receded to the earlier rates. The master, however, not only recognizes present high construction costs, but clings to the high money rates which did prevail for a period, but no longer continue. If the sign of the market must be followed as to valuation, why not follow it as to the rate of return?

The question suggests the reflection that what goes up, comes down only with difficulty, if exact standards and measures are not established. This applies not only to rate of return, but also to valuation. If a particular figure has once been established, it is likely to stand a considerable period after its justification, even under reproduction cost, has disappeared. Today, as to

most properties, the public would probably have little to lose if rigid reproduction cost under modern methods of construction were used. But, there is the rub; there are no exact figures; the amounts depend upon estimates and opinion. These involve personal interests; hence there is the tendency toward one-way variation—upwards, but not downwards.

SPECIAL MUNICIPAL CORPORATIONS

BY F. H. GUILD
University of Kansas

There are 47 varieties of special municipal corporations in the United States. They are serving useful purposes, at least until local government is readjusted to meet modern needs. :: :: :: ::

It seems possible to present now as a positive thesis the proposition that there exists in local government a distinctive agency which merits independent recognition, and that our historic attitude, our traditional acceptance of the general framework as we continue to think and write about it, has long since ceased to be an accurate statement of our actual local governmental machinery.

Hitherto we have divided local governmental agencies into two classes: First, the subdivisions of the state, the county and township; second, the cities and their diminutives, the town and village. School districts and other *ad hoc* bodies, as "sports" or "freaks" in governmental evolution, have been classified with counties and have been relegated to nomenclative mortification as *quasi-corporations*.

The first of these historic groups exists for land regardless of population, topography, or economics. Its functions are those which must be exercised for land regardless of population or any special problems. The second group contains those special forms of corporate organization whose reason for existence is found in the one word "population." It is density, congestion of population, primarily that alone, with the problems which arise as that congestion is intensified, which is responsible for the existence of the city, town, or village in their particular forms. Otherwise the county and township forms suffice. The second does not supplant, it supplements the first.

THE NEWER AGENCY

In addition to these traditional forms, however, there has arisen in fact a newer agency, the special municipal corporation, superimposed upon all of the others and disregarding them freely. Like the municipal corporation proper, that is, the civil city, this special corporation is formed to meet a particular community need not satisfied by the pre-existing general framework of government.

Many of these community problems are primarily geological, topographical or economic in character. Questions of climate, of rainfall or the lack of it, of devastating floods, of water-sheds and water power, of arid lands or marshy ground, of agricultural development, of river and harbor development—these are of themselves problems apart from that of population, however

much the presence of population may influence the movement to overcome the difficulties nature may have placed in the way of progressing civilization. They are not, however, problems to which population stands in relation of cause to effect.

Moreover, there are legal, financial or constitutional problems, more particularly those centering around the construction of public improvements in the face of mounting indebtedness combined with rigid constitutional limitations.

Still more important are the probblems of jurisdiction, as the machinery for the satisfaction of public needs passes beyond the legal boundaries of the local governments affected. For example, the flood of 1913, which threatened Dayton, Ohio, and six other municipalities, resulted in the creation of the Miami Conservancy District, covering nine counties.

For various reasons in the past, the historic forms of local government failed to meet needs of this nature. The community immediately affected was not interested in general reorganization of government upon a more ideal basis. What the situation demanded was immediate relief for the one particular problem.

THE EASIEST WAY

It was far easier to leave the old forms intact and to superimpose new forms for the new problems. To replace a long established form of government with a new seems revolution. To supplement with a new, while it may eventually lead to chaos, is for the moment only an innovation.

To illustrate, again. When Florida sought to drain the Everglades, or Missouri the wet lands of the Little River, it was by means of the Everglades Drainage District and the Little River Drainage District, two special municipal corporations of great size, the latter almost as large in area as the entire state of Rhode Island. Or when, in California, a new residence district of slightly over one hundred inhabitants, pestered by mosquitoes, sought to drain nearby marshy soil and to oil catch basins, it was by means of the mosquito abatement district. A little summer colony on the New England coast desired services for which the town would not pay, and a water, fire, or lighting district filled the need.

One familiar illustration may serve to identify the nature of financial, legal or constitutional needs. Decatur, Illinois, in 1916, ordered by the rivers and lakes commission to cease pollution of the Sangamon River, discovered that the needed sewage disposal plant involved $900,000 which was $700,000 more than the constitutional bonding margin remaining. Under the constitutional framework existing, a minimum of four years would have been required for the adoption of a constitutional amendment and the passage of a new law thereunder. In less than one year a special municipal corporation, the sanitary district, had met the problem. Bloomington, Illinois, and Indianapolis, Indiana, were in the same predicament the same year. And in Indiana, of course, it is practically impossible to secure the adoption of constitutional amendments.

The special municipal corporation, as a bonding district, with its own independent debt limit, became a species of political fourth dimension which enabled these cities to satisfy their immediate, legitimate public needs as though the antiquated constitutional impediments did not exist.

THE NEED FELT EARLY

Beginning with the legal recognition of the Massachusetts school district in

1789, the Pennsylvania poor districts of 1831, the Rhode Island fire district of 1841, and the Illinois bridge district of 1847, the incorporated district sprang into favor from 1850 to 1895 for rural purposes, with levee, reclamation, swamp land, drainage and internal improvement districts. The Wright Act of California, 1887, fully sustained by the United States Supreme Court in 1896, opened a new field in the utilization of irrigation districts. The Illinois park districts of 1869 and sanitary districts of 1889, with the Port of Portland, Oregon, in 1891, began the extension of the district idea to more strictly urban problems.

At present special municipal corporations exist under at least eighty-nine names and forty-seven distinctive species, counting the school district once only. There are at least thirty-four different names and eight species of school districts. (See table on page 322).

Whatever the purpose, be it a public one; whatever the size of the district; whatever the existing governmental agencies; in the patchwork legislation of the past hundred years special problems have been solved repeatedly by means of these special incorporated districts created to accomplish a single definite purpose.

COURTS HAVE SUSTAINED POWER TO CREATE SPECIAL DISTRICTS

The legislative power to establish such new agencies has been upheld by the courts in sweeping terms. To quote from the South Park case in Illinois:

> The constitutional provision that the legislature *may* vest the corporate authorities of counties, cities, etc., with the power to assess and collect taxes, does not confine the legislature to any particular corporate authorities, or to any then known instrumentalities of that character. That document [the Illinois constitution] was made for all time with full knowledge that the public necessities might require the creation of various and dissimilar corporate authorities, and to be imbued with administrative functions of a nature which could not be properly exercised by any known and existing corporate authority. . . . There is no prohibition which we have been able to discover against the creation by the legislature of every conceivable description of corporate authorities.

Sweeping dicta, perhaps, but that decision of 1869 has been borne out amply by the history of the diversification of incorporated districts in the past fifty-nine years.

In consequence it can be stated emphatically, I venture to suggest, that, if the law be drawn with due reference to the established practice of each particular state, it is now possible to create in any state separate independent corporations or districts for any known public purpose, large or small,—for improvements essentially commercial in nature, for flood control, or indeed, for farm relief.

Many of these districts are well enough known by name, as curious *ad hoc* bodies. The chief difficulty has been the failure to recognize, in the various species and under the bewildering array of names, the common genus to which all of them belong. But the distinctive genus is discernible, capable of identification, and susceptible of greater utilization, adaptation,—and limitation.

The special municipal corporation may be defined as a public corporation, formed for a single purpose or for a few closely related purposes, with territory and inhabitants, autonomous, with power to select its own officers, issue bonds and levy taxes for the accomplishment of its corporate purpose. Not all of these markings need appear distinct in each species.

On one hand the so-called "incorporated district" of Kentucky, the

ALPHABETICAL LIST OF 89 NAMES OR 47 VARIETIES OF SPECIAL MUNICIPAL CORPORATIONS

Agricultural Development District
Agricultural District
Boat Course District
Boulevard District
Bridge District
Canal District
Commercial Waterway District
Community Centers
Conservancy District
Conservation District
Coöperative Agricultural District
County Power Pumping District
County Water District
Diking District
Ditch District
Drainage District
Drainage Improvement District
Electrical District
Fire District
Flood Control District
Flood Prevention District
Forest Fire District
Forest Preserve District
Fresh Water Supply District
Good Roads District
Harbor Improvement District
Highway District
Highway Improvement District
Improvement District
Incorporated District
Independent Highway District
Inlet District
Internal Improvement District
Irrigation District
Junior College District
Lamp or Lighting District
Levee District
Library District
Light, Heat, and Power District
Local Improvement District
Metropolitan Park District
Metropolitan Utilities District
Mine Drainage District
Mosquito Abatement District
Municipal Improvement District
Municipal Water District
Navigable Canal District
Navigation District
No-Fence or Stock-Law District
Overflow District
Park District
Paving District
Pleasure Driveway and Park District
Poor District
Port District
Power District
Protection District
Public Cemetery District
Public Health District
Public Utilities District
Railroad Aid and Benefit District
Reclamation District
River District
River Improvement District
River Regulating District
Road District
Road Improvement District
Rural Community
Rural Improvement District
Sanitary District
Sanitary Drainage District
School District (under 34 names or 8 varieties)
Sea Wall District
Sewage District
Slough District
Storm Water District
Stumpage District
Stumping and Land Clearing District
Swamp Land Reclamation District
Tunnel District
Watch District
Water Development District
Water District
Water Improvement District
Water Power District
Water Storage District
Waterworks District
Waterworks Improvement District

municipal districts authorized in Connecticut since 1893, the fire, water, watch, and lighting districts of New England, and the incorporated rural community in North Carolina approximate closely the town or village as municipal corporations proper.

On the other hand, a quasi-corporate district is frequently difficult to distinguish from the special assessment or taxing district which is purely an administrative area.

ADVANTAGES AND DANGERS

The chief advantage of the special municipal corporation lies in its answer to jurisdictional questions. The supple agency capable of adjusting its legal boundaries to conform to the natural boundaries of the particular problem possesses a superiority of flexibility unrivaled by the historic agencies.

The chief danger lies not in the agency itself but in the chaotic multiplication of overlapping governments in those communities which attempt to solve complex problems by the augmentation of *ad hoc* bodies rather than by systematic reorganization of their entire governmental régime.

Adequate state supervision of the technical side of projects which are in fact frequently merely parts of a greater problem, and local budgetary control to consider as a unit the bonding and taxing powers and needs of all agencies within the county will remove other very grave dangers which assuredly exist at present.

Additional constitutional revisions to free revenue-producing improvements from present debt limitations, city-county consolidation, the trend towards regional government, and above all else the laggard movement towards reorganization of the county along modern lines, should result, ultimately, in the elimination of many of these districts as unnecessary and undesirable.

Until such time as the inadequacies of our present system are remedied, most of these districts must be credited with a positive contribution to the welfare of their communities.

For the future, even with the readjustments accomplished, it seems probable that the special municipal corporation, as a distinctive agency, will continue to establish for itself an important place as an essential part of governmental machinery without which some of the most motivating impulses and needs of communities cannot be satisfied.

RECENT BOOKS REVIEWED

THE ECONOMIC EFFECTS OF PUBLIC DEBTS. By Shutaro Matsushita, Ph.D. New York: The Columbia University Press, 1929. Pp. 186.

This is a timely and readable volume on the history, the nature, the purpose and the economic effects of public debts. Fully one-half of the volume consists of a survey of representative opinions or theories on public debts that have been advanced by great writers on public finance since Jean Bodin first made the observation that the royal expenditures upon public works were unconditionally beneficial to the country. The method of treatment is mainly that of comparison and contrast. In the light of modern experience and on the basis of present views, the author also endeavors to reveal the wisdom and error, the pessimism and optimism of the early theories.

Among the contributions which the modern school has made to the theory of public debts, the following are considered significant: the establishment of the concept that public credit in itself is neither a good nor an evil, but that great harm or benefit may come of it according to the way in which it is utilized; the closer analysis of the differences in economic effects of taxes from those of loans, with a consequent clearer recognition of the advantages obtainable by the judicious application of both in the financing of emergencies; the drawing of a distinction between productive and unproductive, and ordinary and extraordinary expenditures, together with an analysis of the different economic consequences that arise from loans made for those various purposes; the analysis of the different kinds of loans according to the sources from which they flow, or according to the manner in which they are paid; the psychological analysis of the industrial effects of large loans to finance a war.

In discussing the economic effects due to the nature, the purpose, and the redemption of public debts, the author presents an abundance of facts to fortify his theories and precepts. Bonds with a high rate of interest are favored only in times of emergency, because they aid in readjusting business relations and in encouraging production. Perpetual bonds are regarded useful for the government and the people in case of borrowings for non-commercial or semi-commercial investments, because the government is relieved of an untimely demand for repayment, while the people are relieved of heavy taxation because the burden of cost is distributed over a long period. For the purpose of industrial undertakings, foreign loans ought to be undertaken to the fullest extent, provided that the rates of interest are reasonable and that no political conditions are attached to them. The period immediately after the war is propitious for the redemption of war debts, because then taxes have expanded, business is prosperous, and the burden of debt is little felt. Public ownership *per se* is economically justifiable, and, furthermore, ought to be vigorously advanced in all such fields as telephone, telegraph, railroads, gas, water, street railway, and electric light services, wherever and whenever private ownership runs counter to public interest and there is certainty of success for public ownership. Public debts contracted for such purposes are "truly conducive to great public welfare."

The author wisely conditions his statements of principle, so that his opinions do not seem arbitrary and dogmatic. Students of public finance who are seeking an introductory treatise on the subject of public debts will find this a very useful volume.

MARTIN L. FAUST.

PLANNING INFORMATION UP-TO-DATE. A Supplement, 1923–1928, to Kimball's Manual of Information on City Planning and Zoning, including References on Regional, Rural and National Planning. By Theodora Kimball Hubbard and Katherine McNamara. Cambridge: Harvard University Press, 1928. Pp. 111.

The rapid broadening of the field of city planning is forcefully shown by the list of new subjects in the comprehensive bibliography in this volume:

Airports
Architectural control
Automobile service stations
Billboards
Boards of Zoning Appeals
Budgeting
Building lines
Citizens' committees
Court decisions—Platting
Court decisions—Zoning
Definition of city planning

Districts, Residential
Esthetic regulation
Resorts, Pleasure
Roadside stands
Setback building lines
Street traffic surveys
Super-highways
Vision clearance
Zoning—Administration

None of these had become prominent in 1923, when Miss Kimball's *Manual of Information on City Planning and Zoning* appeared.

The present book, bound uniformly with the *Manual*, is intended to be used as a supplement to this compendium of information on city planning, its meaning, its procedure, its propaganda methods, and kindred topics. To the earlier bibliography 53 pages, or practically 50 per cent., have been added. The citations on state planning have been doubled. A contemporary list selects the best articles on city planning abroad as well as reports for the most progressive American cities. Ten new titles have been added to the "Twenty-five References for a City Planning Library."

The list of organizations active in promoting city planning in the United States reveals nineteen national bodies, as well as twelve states with volunteer organizations and seventeen cities with regional planning groups at work.

It is noteworthy that these uniquely informative volumes are the direct result of research activities by the staff of the Library of the Harvard University School of Landscape Architecture. More and more research in city planning is profoundly needed, and for this our leading universities seem eminently fitted.

ARTHUR C. COMEY.

⚜

MODERN PUBLIC CLEANSING PRACTICE: ITS PRINCIPLES AND PROBLEMS. By A. L. Thomson. London: The Sanitary Publishing Co. Pp. 260.

Mr. Thomson, who is the cleansing superintendent of a Scottish burgh, presents in this little volume a discussion of the principles, and a description of British methods of municipal refuse collection and disposal and street cleaning. While the ground covered is quite comprehensive, much attention is given to fundamentals. The British official who wishes to improve his knowledge of municipal cleansing and the student who is ambitious to become a British cleansing superintendent would find this book helpful. Lists of questions are placed at the ends of the chapters to assist the student to test his knowledge. However, the omission of an index detracts from the usefulness of the book as a work of reference.

For those of other countries the chief value of the book, in addition to its history of municipal cleansing and the discussion of principles, will probably lie in the opportunity which it gives to compare British with other methods and to glean suggestions for improvement. The American reader, unless he is recently from Great Britain, will stumble here and there over unfamiliar terms. For example, a tip is not the gratuity bestowed in some American cities by the weary householder upon the refuse collector to induce him to make his collection from the cellar instead of the street, but it is a dump; the equipment for hopping is a kind of barge; and gritting a street is done to prevent skidding.

It is interesting to the student of municipal government that Mr. Thomson advocates a separate department for the cleansing service. Furthermore, while he gives both sides of the question, his argument seems to support municipal rather than contract work. He sets a high standard of qualification for the municipal cleansing superintendent. If the qualifications for the position given in the book can be realized in practice the service would be on a high plane of efficiency and this, Mr. Thomson urges, is where it should be. The "shovel engineer" and "the man who knew all about horses" are no longer adequate.

Apparently human nature in Great Britain has points of similarity with that of the United States. In both countries the householder, it seems, does not always coöperate whole-heartedly with the municipal cleansing forces. Mr. Thomson devotes a chapter to the educational and publicity work useful in attempts to obtain the householder's coöperation. Scavengers also, to mention only one other similarity, create a problem on both sides of the Atlantic.

C. A. HOWLAND.

⚜

A TEN-YEAR FINANCIAL PROGRAM FOR SYRACUSE, NEW YORK. By Orin F. Nolting, Syracuse University, School of Citizenship and Public Affairs, 1929. (Typed.) Pp. 125.

The report, outlining a comprehensive financial program for Syracuse, is the result of an extensive investigation by the Municipal Research

Commission of that city, made at the request of the mayor. The Commission authorized Mr. Nolting, as secretary, to obtain estimates of present and future needs from the various departments, both for operating expenses and capital improvements, for the next ten years. The report summarizes these estimates, and sets up a revenue program to meet them.

The need and procedure for such a program, and the importance of population increase, are set forth following an initial summary. The probable operating requirements are discussed in some detail.

Then follows a presentation of capital improvements proposed. These estimates are the result of detailed reports by the several bureaus, as approved by the department heads. The main means of financing the program, as to taxes and other revenues, are then discussed, followed by an appendix consisting of nine schedules relating to past and future expenditures, taxes and debt. The figures throughout the report are supplemented by a series of graphs. An exhaustive bibliography is appended.

Syracuse has a population of 185,000 and an assessed valuation of $313,000,000. For the next ten years, it is estimated that operation and maintenance will cost $165,000,000, and improvement projects, $60,000,000. It is proposed that part of the revenue come from gradually raising the present 60 per cent basis of assessments, and pay-as-you-go is recommended for schools and other recurring outlays.

The report differs from the usual long-term program in its ample discussion of current operation, as well as outlays. It differs also in that it is merely an assembling of departmental estimates, for submission to the executive, without critical judgment by the commission as to necessity or urgency of each project. The executive must weigh them all, as well as consider the city's economic ability to finance his recommended program. Public hearings will naturally follow. These facts are undoubtedly fully recognized by the commission, and are not offered in the way of a criticism, but merely to point out that it is a program before rather than after official action. Public officials, incidentally, are usually slow to act in committing themselves to a definite program of this kind.

The report is very carefully worked out and presented, and is an unusually complete and adequate study of its kind.

C. E. Rightor.

County Welfare Organization in Ohio. The Ohio Institute, Columbus, Ohio. November, 1928. Pp. 61.

The findings of this important report on county welfare administration, prepared and published by the Ohio Institute, of which R. E. Miles is director, have a familiar ring to all who have had the opportunity to explore this no man's land of public administration. It is worth while, perhaps, to summarize in brief what these findings were, for they embody criticism which could probably be made of county welfare administration in the great majority of our states.

1. The county is the outstanding local government unit in the field of welfare administration.

2. Welfare administration ranks second among county functions in point of cost, requiring about $12,000,000 per year.

3. County welfare administration is utterly headless and decentralized.

4. Standards of welfare administration vary widely among counties both as to the size and training of the personnel and as to the adequacy of the service rendered.

5. A large number of counties do not have any full-time social service employees, and most counties lack sufficient staffs for handling social work.

6. Very few persons handling county welfare activities have had any training in social work and relatively few have had previous experience in dealing with welfare problems.

7. The efficiency of county welfare work is seriously impaired by inadequate investigation.

8. County relief is lacking in social service and constructive assistance.

9. Public welfare administration is greatly handicapped in many counties by inadequate financial support.

To remedy these conditions which the report regards as a barrier to efficient administration of this important group of activities, it proposes to establish county welfare departments embracing all charitable and correctional activities. It recommends the extension of state public welfare services so that the state may better provide for coöperative assistance to the counties, enactment of legislation to permit the boards of county commissioners to create the position of county superintendent of public welfare, who may act as the agents of such boards in dealing with problems of public welfare and social readjustment.

An unsalaried, advisory board of welfare for each county is also recommended, such board to be established by each board of county commissioners for the purpose of studying county welfare work and advising the superintendents of public welfare on matters of policy.

This report of only 61 pages is one of the best discussions of county welfare problems which has come to our notice. Dr. Miles and his co-workers have done a splendid piece of work and we hope that the excellent plan which they have developed for county welfare administration in Ohio will receive the attention it deserves from state and county officials. It is unfortunate that bureaus of municipal research have so little opportunity to direct their attention to county government.

CARL E. MCCOMBS, M.D.

REPORTS AND PAMPHLETS RECEIVED

EDITED BY E. A. CRANDALL

Selection of Patrolmen in Syracuse, New York.—By the Municipal Research Commission of Syracuse, January, 1929. 48 pp. (Mimeographed.) A report submitted to the Municipal Civil Service Commission. Contains existing procedure in Syracuse with recommended changes. The recommendations might well be studied by other cities in their selection of members of the police force.

*

Compilation of Laws Pertaining to the Metropolitan Police Department.—Compiled under the direction of the superintendent of metropolitan police, Washington, D. C., 1928. 43 pp. Covers laws dealing with the organization, rules and regulations, powers, discipline and other matters concerning the metropolitan police department, District of Columbia.

*

Survey of the Metropolitan Police Department of Kansas City, Missouri.—By Kansas City Public Service Institute under the direction of August Vollmer, March, 1929. 165 pp. and appendices. (Mimeographed.) Made for and approved by the Chamber of Commerce of Kansas City. The purpose of the survey was stated by the police and fire committee of the Chamber of Commerce as follows: to "collect information concerning crime, vice, traffic and other police problems; study every phase of the organization and administration of the local police department; estimate if possible whether or not the force is adequately manned, distributed, supervised and equipped to meet the problems presented and to submit an opinion of actual requirements for the economical and efficient administration of the Kansas City Police Department." Those making the survey compared and evaluated all the data acquired by a thorough investigation and reduced it to "tables, charts, graphs and recommendations." These comprise the report.

*

The Pension Systems of the City of Detroit.—By the Detroit Bureau of Governmental Research, January, 1929. 46 pp. (Mimeographed.) Submitted to the city controller and the director of the budget. Municipal pensions are not justified on sentimental grounds but are based rather on economic expediency. The report explains practices in Detroit and in its conclusion suggests a joint committee of employees and administrative officials to consider pension problems.

*

Street Traffic Signs, Signals, and Markings.—Report of the Committee of American Engineering Council, 1929. 58 pp. A recommended practice, based upon a thorough analysis of fundamental facts with the hope of securing "better and more uniform practice as a means of increasing safety and facilitating traffic on city streets." Surveys were made and returns analyzed for over 100 cities.

*

Fourth Annual Report of the Board of Adjustment, Zoning, City and County of Denver, Colorado.—1929. 22 pp. Contains details on exceptional cases handled by the board with mention of a number of meetings, with number and types of cases disposed of.

*

Delaware's General Budget for the Fiscal Years Ending June 30, 1930 and 1931, Part II,

Action by the Budget Committee.—By the Taxpayers' Research League of Delaware, Wilmington, Delaware, March, 1929. 8 pp. (Mimeographed.) Part I consists of an analysis of the general budget as submitted to the legislature by the governor. Part II analyses the revision by the budget committee of the legislature and passed by the House of Representatives but still under consideration in the Senate.

✻

The Mayor's Budget.—By the Buffalo Research Bureau, March, 1929. 10 pp. (Mimeographed.) A memorandum to the common council on the proposed budget for the fiscal year 1929–30 as submitted by the mayor on March 15, 1929. What the Bureau considers to be "gross irregularities" in the budget are set forth in detail.

✻

Report of the Arkansas Commission on Business Laws and Taxation.—January, 1929. 224 pp. Report of Commission appointed by the governor pursuant to an act passed by the state legislature. Essential facts on assets, income, taxes and debt for Arkansas are collected. No specific legislative measures are recommended but the facts necessary for the formulation of such legislation are provided.

✻

Magistrates' Courts in the Borough of Manhattan.—By the Women's City Club of New York and the City Club of New York, January, 1929. 11 pp. A study of some of the features of these courts as they exist at the present time.

✻

The City Manager Plan in Iowa.—By John M. Pfiffner. 152 pp. Reprinted from the October, 1928, and January, 1929, numbers of the *Iowa Journal of History and Politics,* published by the State Historical Society of Iowa. Since the early Iowa law made no provision for a city manager in city government, the manager was elected as city clerk but given the additional title of city manager. In 1915 two acts were passed by the legislature providing for an optional city manager plan of government. The report deals with a history of city manager government since that time.

Nine cities and one town are discussed in detail. History, organization, and results are given for each. The author then discusses briefly the unsuccessful attempt to adopt the manager plan, cases in which it has been abandoned, and those cities that have what he terms quasi-managers. In his summary Mr. Pfiffner gives an evaluation of the results of city manager government in Iowa.

✻

The Merit System.—By Oliver C. Short, 1928. 159 pp. Contains a statement of personnel work in industry and a description of the merit system in government. The merit system law of Maryland and the rules of the employment commission of that state are included. Appendix I is an extensive bibliography. The monograph is planned primarily for courses in civics in public high schools.

✻

Report on Akron City Lines of the N. O. P. and L. Company.—By the Bureau of Municipal Research of the Akron Chamber of Commerce, November, 1928. 143 pp. Prepared for the Citizens' Franchise Fact Finding Committee and submitted to the mayor and city council for use in franchise negotiations. A very comprehensive study including court decision on valuation and rate of return, analysis of franchises, accounting study, analysis of prior appraisals, physical appraisal, historical cost of city lines, capital securities issued, estimate of return, operating income and expense, annual depreciation charge, and economies of car and bus fares.

JUDICIAL DECISIONS

EDITED BY C. W. TOOKE

Professor of Law, New York University

Police Powers—Flagman at Railroad Crossing.—In *Hargrave* v. *Texas & P. Ry. Co.*, 12 S. W. (2d) 1009, the Commission of Appeals of Texas sustains the validity of a police ordinance requiring the defendant to keep a flagman at crossings to give notice of approaching trains. The failure to obey the ordinance was found to have been the proximate cause of the plaintiff's injury and the defendant attacked the validity of the ordinance as a reasonable exercise of the police power. While the ordinance prescribed that a flagman should be on duty from 5 A. M. to 10 P. M., the court construed it to mean only upon the approach of trains within those hours. The holding of the trial court that the failure to obey the ordinance was negligence in law was sustained.

A similar question was decided by the Supreme Court of the United States, February 22, 1929, in the case of *Nashville, Chattanooga & St. Louis Ry.* v. *White*, 49 Sup. Ct. Rep. 189, in which the plaintiffs intestate had been killed on a grade crossing in Memphis. As in the previous case, the liability of the defendant was predicated upon the violation of an ordinance requiring a flagman at a grade crossing. The only question before the Supreme Court was the validity of such an ordinance, especially in view of the substitution of an electric flashlight signal by the railway company. The court, speaking through Mr. Justice Holmes, held that the ordinance could not be held to be unreasonable as a matter of law, that there is a marginal chance that a flagman may save a life of a person where the mechanical appliance would not so fully warn.

In neither of these cases was the question of the delegation of the power to enact reasonable ordinances to control traffic at railroad crossings raised. It is usually assumed to exist under a general grant of local police power, though there may be limitations imposed by other state statutes which sometimes are construed to negative the implication. (*Pennsylvania Railroad Company's Appeal*, 213 Pa. 373.)

⚜

Officers—Right to Compensation.—The divergent views of the right of a municipal officer to the salary of his position when he is excluded from ocupying his office is well illustrated in two recent cases, one arising in New Jersey, the other in Kentucky. This question usually arises in cases in which a *de facto* officer discharges *pro tempore* the duties of the office and is paid the salary. The weight of authority, based upon the necessity that the public duties be discharged, holds that the *de jure* officer under such circumstances cannot recover against the city, whatever may be his remedy against the *de facto* officer. In the New Jersey case, *Fitzpatrick* v. *Peasare*, 143 Atl. 725, this doctrine is extended to prevent recovery of salary by an officer duly appointed, but prevented from occupying his office by other public authorities. The supreme court places its decision upon the ground that the officer's right to compensation is based solely upon the rendition of services. The plaintiff in question, an acting police officer, was promoted by the commissioner in charge of appointments just before going out of office. The incoming commissioner refused to acknowledge the validity of the appointment and the officer continued to discharge under protest the duties of his old position and received the salary attached thereto. The validity of this appointment having been upheld his action was to recover the emoluments of the office.

In *Blanks* v. *Tombs*, 14 S. W. 2d 153, the court of appeals of Kentucky upheld the right of the petitioner to the salary of his office, from which he was wrongfully excluded, upon the principle that the salary is an incident of the office, and affirmed a writ of mandamus directed to the mayor to sign the warrant that would entitle him to his pay. The latter ruling seems more consistent with the general principles of the law of public officers, and we may expect the judgment of the New Jersey court to be reversed by the Court of Error and Appeals, to which the plaintiff has appealed.

⚜

Parks—Rights of Abutting Owners to Continuance.—The lack of power of the municipality or of the state itself without compensation to the owners of property affected to divert from

its prescribed use land dedicated by private individuals to park purposes has long been an admitted principle. The right of such property owners to invoke the powers of a court of equity to restrain a diversion of park lands to other purposes has been often recognized where they have bought and improved the lands relying upon a private dedication or a dedication by the public itself. The doctrine that the adjoining owner in either case has a peculiar interest in the maintenance of a park, over and beyond the general interest as a member of the public or as a taxpayer, is now established in several states. That such rights are analogous to those of an abutting owner in the maintenance of streets and arise from the relation of the adjoining lands to the park is illustrated by two cases recently decided by the Supreme Court of Illinois.

In *Carstens* v. *City of Wood River*, 163 N. E. 816, the city purchased a small tract of land which was conveyed to it for "park purposes." In 1926, the city, wishing to use the land for a playground, obtained from the grantor a quit-claim deed granting its use for a "recreation center" . . . "including public playgrounds, swimming pool, bath houses and recreation pavilion." The city thereupon proceeded to erect such structures against the protests of Carstens, who owned lands suitable for building purposes adjoining the park. He thereupon filed a bill for an injunction on the ground that he had an easement in the park property, and could not thus be deprived of its value without his consent. The court held that the bill stated a good cause of action, that the use proposed was not a park purpose and that the demurrer to the bill should be overruled.

In *Robbins* v. *Commissioners of Lincoln Park*, 164 N. E. 10, a similar question arose on demurrer to a bill to enjoin the defendants from erecting an elevated boulevard along the lake front, the petitioner claiming that such an erection was not for a park purpose but a diversion to highway purposes and would result in injury to his lands which adjoined the park. The court held that the act turning these lands over to the commissioners limited its use to park purposes, and that the demurrer should be overruled. (See also, *Chicago* v. *Ward*, 169 Ill. 392; *Fessler* v. *Union*, 67 N. J. Eq. 141.)

*

Indebtedness—Creditors' Rights Upon Change of Boundaries.—In *Chicago Title & Trust Co.* v. *Hagler Special School District*, 12 S. W. (2d) 881, the plaintiff sued as trustee of certain mortgage bonds issued by the defendant district to obtain judgment for the amount due and to foreclose the mortgage. The defendant had been authorized to mortgage its property to secure the issue of bonds, proceeds of which went to construct a school building. The district was organized in 1915, but no notice of the intention to apply for such special act had been given as required by the constitution of Arkansas. In 1917 and 1919, material parts of the district were disannexed by acts of the legislature, each of which recited the irregularity in the organization of the defendant district. This defect was pleaded by the district in defense of the action and also the fact that the plaintiff had never complied with the laws authorizing foreign corporations to do business in the state. Upon the latter fact, the lower court held the contract for the bonds illegal and void.

The Supreme Court of Arkansas in reversing the judgment points out that the act of the defendant as trustee in suing upon the bonds in default is not doing business within the state (*Bamberger* v. *Schoolfield*, 160 U. S. 149) and that the legislature in passing the act creating the district necessarily found that the notice required by the constitution had been given, a finding not reviewable by the courts. The subsequent acts of the legislature in detaching material portions of the territory of the district were held to be void, as materially impairing the obligation of the contract (*Midland School District* v. *Central Trust Co.*, 1 F. (2d) 124).

The Supreme Court of Michigan in a case decided in January of this year goes still further in applying the contract clause of the Constitution to limit the power of the legislature to change municipal boundaries and holds that no such change can be effected unless proper provision is made for the allocation of existing indebtedness. In *Board of Education of Lincoln Park* v. *Board of Education of Detroit*, 222 N. W. 763, the plaintiff sought by mandamus to compel the defendant, to which the legislature had annexed a portion of the territory formerly included within the Lincoln Park district, to pay part of the interest on bonds issued before the disannexation. The act of the legislature provided that upon the division of the district, the part which remained should be liable for the payment of all indebtedness incurred for the erection of school houses therein. The Supreme Court of Michigan, in vacating an order denying a writ of man-

damus to compel the defendant's officers to pay their proportion of the indebtedness, of its own motion decided that the act of disannexation was void as affecting the contract rights of creditors. The decision seems to unduly stretch the contract clause of the Constitution, for the limitation thus imposed upon the power of the state to readjust boundaries of its local subdivisions is not based upon the question of the material impairment of the creditors' rights, but is supported by several previous decisions of the court (*Finn* v. *Board of Supervisors*, 167 Mich. 166, *Board* v. *Ellinger*, 244 Mich. 28). It certainly goes much further in restricting the power of the state legislature in this regard than does the Supreme Court (*Kies* v. *Lowrey*, 199 U. S. 233).

*

Street Obstructions—Police Regulations.—In *Hudson* v. *Terre Haute*, 164 N. E. 502, decided by the Indiana Appellate Court, January 11, 1929, the court in overruling a demurrer to a complaint which alleged that the cause of the plaintiff's injuries were due to the maintenance of a nuisance in the public street, took occasion to review the whole subject of obstructions erected by the city authorities for the purpose of promoting safety of traffic. The obstruction complained of was a marker placed in the street to mark off a safety zone, which the court intimates was a lawful structure which the city had the right to erect and maintain, being for the protection of the general traveling public.

Perhaps the leading case on this point is *District of Columbia* v. *Manning*, 18 Fed. 2d 806, 57 A. D. 156, decided in 1927 and reported and annotated in 53 A. L. R. 167. In denying that the maintenance of iron markers at the outside corners of safety-zones at car stops, in accordance with a uniform plan throughout the city, constituted negligence as a matter of law or subjected the municipality to liability to a pedestrian falling over a marker to his injury, the court said:

> It is clearly within the power of the commissioners to establish safety zones for the protection of the public in entering and alighting from street cars, as well as in waiting for the approach of cars. The establishment of safety zones, similar to the one in question, extends throughout the city, and is generally known by the public, and their use is recognized. It was not negligence as matter of law to place these markers in the street in accordance with a uniform plan throughout the city. Before a device placed in the street for the protection of the public generally, and as an aid to the regulation of traffic, can be said to constitute negligence per se, it is proper to consider the scope of the authority reposed in the commissioners in matters of this sort. Modern traffic conditions in large cities are at best highly dangerous and difficult of regulation. Wide latitude, therefore, will be afforded the authorities in devising and establishing safety devices. Platforms in the street for the protection of the traveling public in entering and alighting from street cars may constitute more or less an element of danger to vehicles and pedestrians using the street. The same may be true of the method of establishing safety zones, but it cannot be said that the exercise of such authority by the District Commissioners is negligence as matter of law. Where the advantages greatly outweigh the disadvantages, the exercise of the authority will be upheld.

Other cases raising the same question as to such obstructions erected in the streets to promote the safety of the traveling public are cited by the court and may be studied with profit: *City of Jacksonville* v. *Bell*, 93 Fla. 936, 112 So. 885 (concrete landing platform; city not liable); *Town of Hobart* v. *Casbon*, 81 Ind. App. 24, 142 N. E. 138 (cement traffic post; town held liable); *Titus* v. *Town of Bloomfield*, 80 Ind. App. 483, 141 N. E. 363 (silent policeman in center of street; judgment for defendant affirmed, for failure to give statutory notice); *Shannon, Admr.* v. *City of Council Bluffs*, 194 Iowa, 1294, 190 N. W. 951 (bridge truss in center of street; city held not liable); *City of Elyria* v. *Meacham*, 113 Ohio St. 138, 148 N. E. 689 (overhead bridge pier, city held not liable); *Aray* v. *City of Newton*, 148 Mass. 598, 20 N. E. 327, 12 Am. St. Rep. 604 (hitching post; city not liable); *Vicksburg* v. *Harralson*, 136 Miss. 872, 101 So. 713, 39 A. L. R. 777 (bumper in street; city held liable); *Brennan* v. *City of Streator*, 256 Ill. 468, 100 N. E. 266 (water box; city liable), *Dougherty* v. *Trustees Village of Horseheads*, 159 N. Y. 154, 53 N. E. 799 (boulder; not liable), *Gulfport & Mississippi Coast Trac. Co.* v. *Manuel*, 123 Miss. 266, 85 So. 308 (guy wire; not liable); *Wells* v. *Village of Kenilworth*, 228 Ill. App. 332 (elevated safety island; a judgment for the defendant on a directed verdict was reversed).

Another important case bearing upon the right to obstruct a street by the congregation of people was decided by the Supreme Judicial Court of Massachusetts in January of this year (*Commonwealth* v. *Surridge*, 164 N. E. 480). The defendant was convicted of the common-law offence of obstructing a highway. He had been granted a permit by the authorities of the City of Lynn

to speak on a certain evening at a specified place on State Street. He appeared on the evening in question, mounted a box in the traveled portion of the highway and soon gathered a large crowd attracted by his eloquence in defending the right of the people to assemble in and use the streets for the purposes of free speech. The crowd becoming so large as to interfere with traffic, he was ordered to desist and upon his refusal submitted to arrest.

In affirming the conviction, the court speaking through Rugg, C. J., said:

By the location of a highway an easement of passage is secured for the public with all incidental privileges thereby implied. The fee of the land commonly remains in the owner, who may make any use of it not inconsistent with the paramount right of the public. The easement of passage for the public acquired by the layout of a highway includes reasonable means of transportation for persons and commodities and of transmission of intelligence. Whatever interferes with the exercise of this easement is a nuisance, even though no inconvenience or delay to public travel actually takes place. *Wesson* v. *Washburn Iron Co.*, 13 Allen, 95, 102, 90 Am. Dec. 181.

It is manifest that making a speech from a box and thereby gathering a standing crowd of people, all taking place within a highway, is not an exercise of the easement of travel. It is equally manifest that such speech making and standing crowd is an obstruction to the right of the public to use the highway for travel. It is quite different from the use of the highway for a procession or parade, or for seeing distinguished public personages, or other of the common uses of a highway whereby crowds of people are caused to collect. Occasions may arise where it may be difficult to draw the line. But the case at bar is not close to the line. It presents a plain instance of obstruction of a public way not authorized by any general law.

To undertake to authorize such obstruction of a public way, in perversion of the fundamental conception of the purpose for which land can be taken for a public way, was beyond the ordinance making power of the city council of Lynn. The permit afforded no protection to the defendant.

The instant case, says the court, is governed in principle in every particular by *Commonwealth* v. *Morrison*, 197 Mass. 199, 83 N. E. 415, 14 L. R. A. (N. S.) 194, 125 Am. St. Rep. 338, where the subject is discussed at large. See, also, *Commonwealth* v. *Davis*, 140 Mass. 485, 4 N. E. 577; *Commonwealth* v. *Abrahams*, 156 Mass. 57, 30 N. E. 79; *Commonwealth* v. *Davis*, 162 Mass. 510, 39 N. E. 113, 26 L. R. A. 712, 44 Am. St. Rep. 389, affirmed in *Davis* v. *Massachusetts*, 167 U. S. 43, 17 S. Ct. 731, 42 L. Ed. 71.

✽

Streets and Highways—Rights of Abutter in Vaults Under Sidewalk.—The Supreme Court of Illinois in *Davis* v. *Chicago*, 164 N. E. 673, holds that a property owner who has constructed a vault under the sidewalk may enjoin the officers and agents of the city from interfering with such property rights until it acquires the right of appropriation by condemnation or otherwise. The city in the instant case had instituted a special assessment proceeding for widening the roadway on Milwaukee Avenue some eight feet and reducing the sidewalks on each side by four feet. The petitioner had occupied the subsurface area up to the curb, some fourteen feet in width, for upwards of twenty years as a subway and part of his premises. The court upholds the right of the abutter as owner of the fee in the street to make any use he sees fit in connection with his premises subject only to the dominant easement of the public to use the highway for travel. Such use is a valuable property right, which will be protected by injunction from a threatened invasion by the city authorities. The city may not take or damage such property without providing for compensation nor require the abutting owner to pay rental for the space occupied (*Tacoma Deposit Co.* v. *Chicago*, 274 Ill. 192). But it seems that a reasonable license for the privilege of erecting and maintaining such subsurface structures in the streets is consistent with the protection of the paramount public easement and should be sustained (*Appleton* v. *City of New York*, 219 N. Y. 150.)

PUBLIC UTILITIES

EDITED BY JOHN BAUER

Director, American Public Utilities Bureau

Supreme Court Decides Against Interborough in 5-Cent Fare Controversy.—On April 8 the Supreme Court of the United States handed down its decision in the Interborough 7-cent fare case. This involved the subway contracts between the City of New York and the Interborough Rapid Transit Company, particularly the right of the city in 1913 to fix by contract the rate of fare to be charged by the company. The contract rate is 5 cents; the company sought 7 cents; was there actually a legal contract, or was the right to revise the fare reserved by the state under the public service commissions law? There was also the jurisdictional point whether this legal question was properly before the federal court, or whether it should have been left for determination first by the state courts.

In 1913 the City of New York entered into what is known as "Contract No. 3" with the Interborough Rapid Transit Company. This contract provided for the construction of new subway lines and for the lease of the properties to the company for a period of forty-nine years, including also the subways constructed under prior contracts. All the physical properties covered by the lease are owned by the City of New York, except the equipment of the original subways constructed prior to 1913. The contract established a detailed financial system as to the treatment of revenues, expenses, and the returns to be paid to the company and the city. Among the financial provisions was fixed the 5-cent fare for the duration of the contract.

Contract No. 3 provided only for the construction and operation of the subways. In addition to the subways, however, the Interborough Company operates also an elevated system, leased from the Manhattan Railway Company. The city has no investment in the elevated properties, and is not a party to the lease. Both systems have been operated at a 5-cent fare. The subway contract with the city has been highly profitable to the company, but the elevated contract has resulted in huge losses, leaving the company with impaired credit, notwithstanding heavy subway profits. For the fiscal year ended June 30, 1928, the subway surplus, above all operating expenses and fixed charges, amounted to over $8,500,000, while the elevated deficit exceeded $6,000,000. The company's financial troubles have been due to the elevated lease and not to the subway contract with the city.

The company has made numerous efforts to obtain an increase in fares, but without success. On February 1, 1928, it tried a new method, filing a 7-cent schedule of rates with the transit commission under the section of the law applying to tariffs which are not subject to contract. Before the commission decided whether the new schedule was legally filed, the company moved to the federal court for an injunction against the transit commission and the city to interfere with the charging of a 7-cent fare on both subways and elevated lines, on the alleged ground that the 5-cent fare had become confiscatory. The injunction was granted, but its going into effect was suspended by order of the Supreme Court while the legal issues were to be decided. Without presenting a detailed account of the successive steps and climaxes in the case, the Supreme Court decision may be briefly summarized as follows:

(1) *The Question of Jurisdiction.*—The Supreme Court severely rebuked the lower federal court for granting the injunction:

> Considering the entire record, we think the challenged order was improvident and beyond the proper discretion of the court. The record is voluminous; the contracts between the parties are complex; the relevant statutes intricate. No decision of this court or any court of New York authoritatively determines the questions at issue. The basic one calls for construction of complicated state legislation.

The various steps taken by the company were recounted, including the time and manner of petitioning the federal court. The conclusion was that the transit commission should have had the opportunity to decide the case in the first instance; then the legal point as to the city's power to contract as to the rate of fare could have been contested in the state courts. There was no justification to move to the federal court for the determination under state statutes, when

the state process of determination had already begun.

(2) *The City's Contractual Rights.*—The right of the city to enter into the 5-cent fare contract was not definitely decided, but the direct claim of the company was overruled:

> Both the bill of complaint and the argument of counsel here proceed upon the theory that under the law of New York as clearly interpreted by definite rulings of her courts, the contracts for operating the transit lines impose no inflexible rate of fare. With this postulate we cannot agree.

The court analyzed the so-called Nixon case, upon which the company had relied for its position. But in this case, the highest court of the state had definitely excepted the rapid transit contracts from the scope of its decision that the state had reserved all power over rates in franchises granted or contracts made after the enactment of the public service commissions law. The basic question as to the city's right to fix a 5-cent fare in the 1913 contract is thus left for the state courts to determine; it is their primary province to interpret complicated state legislation and the scope of the state constitution.

(3) *Separation of Subway and Elevated Systems.*—Although the decision appears to rest upon the jurisdictional point and does not go into the merits of the question whether there was a contract, yet the Supreme Court did consider and presumably decided issues that were raised under the assumption that there was no contract as to the rate of fare. If there was a contract, then there can be no confiscation. But if there was no contract, then the basis of judging the adequacy of the fare becomes important. In presenting its case, the company combined the subway and elevated systems. It presented a combined valuation of the properties, and claimed the right to have the fare fixed so as to bring an 8 per cent return upon the reproduction cost of all the properties, elevated and subways. This claim was overruled. The Supreme Court stated that, upon the record, it could not accept the theory that the two roads constitute a unified system for ratemaking purposes. The subways must thus be considered separately; they cannot be burdened with the elevated losses.

(4) *Separation of City and Company Investment.*—The company not only attempted to merge the facts as to subways and elevated, but also included the city-owned properties leased to it under Contract No. 3. All these properties were valued at reproduction cost, without regard to the actual investments made by the city or the company. The latter thus claimed to be entitled to a return of 8 per cent upon the total reproduction cost, without considering the ownership or the detailed contractual provisions with respect to the division of returns. This claim also was rejected:

> The power of the city to enter into contracts numbers 1 and 2 was affirmed in *Sun Publishing Association* v. *The Mayor, supra;* likewise the validity of contract number 3 was declared in *Admiral Realty Company* v. *City of New York, supra.* These cases point out that the object of those contracts was to secure the operation of railways property declared by statute to be parts of the public streets and highways and the absolute property of the city. . . .
>
> The claim for an 8 per cent return upon the values of subways, which are the property of the city and distinctly declared by statute to be parts of the public streets (*Sun Publishing Association* v. *The Mayor, supra*), is unprecedented and ought not to be accepted without more cogent support than the present record discloses.

(5) *General Basis of Valuation and Return.*—As to these matters, there was no discussion. The validity of reproduction cost and the claimed right to 8 per cent were not considered. These are matters to be determined only in an actual proceeding involving the reasonableness of the rates, if and when it be declared that the 5-cent fare part of the contract is not binding. But even in that event, there would be the further fact to be considered that the contract divides the return upon a definite basis precisely stated, and not upon any general doctrine of "fair value."

The decision of the Supreme Court thus upholds the transit commission and the city in every respect, except that it does not finally declare that the city had the right to contract for the 5-cent fare and that this is an inflexible provision for the duration of the contract. This is left an open question which may be pursued in the state courts; its determination involves the interpretation of state statutes and the scope of the state constitution. If the company persists in its view as to its rights, it evidently must go to the state courts for a decision. The road to the federal court now appears to be barred, except as a final appeal from the state courts. Before the latter, it must first get rid of the 5-cent fare provision of the contract,—which seems hardly worth a gambling chance. If it should succeed, it would, of course, have to

separate the elevated from the subways, and the city's investment from its own properties,—and it would have a difficult task to convince any court that it has not been making an adequate return upon its own investment in the subways, even if considered at 8 per cent upon reproduction cost. But, in view of the specific provisions of the contract as to the division of returns, the state courts could hardly sustain any other basis of return than as fixed by the contract; these very provisions lead back to the 5-cent fare, even if abstractly this fixed rate were held to be subject to variation.

To anyone thoroughly acquainted with the New York rapid transit contracts and their relation to city policy, the company's case could never seem anything but expensive speculation with contracts and the law. The company did succeed in getting its phantasies accepted by the lower federal court,—whose action could hardly be characterized more severely than that it was "improvident and beyond the proper discretion of the court." It did succeed in obtaining the services of extremely eminent counsel, but the fees were substantial and not contingent upon the outcome, and under our standards, any issue entertained by any court is entitled to representation by any counsel retained at any fee. The costs to the company apparently reach well over a million dollars; but the management is hoping to place these costs upon the city as operating charges under the contract. It may not succeed.

The decision is one of extreme public importance to the city and all other cities. It leaves scope for municipal policy in relation to utility service and rates. It restores in part the function to the state courts, and should serve as a deterrent to public utilities in following recent tendencies of avoiding state tribunals in rate cases. It has brushed aside specious considerations which might otherwise become troublesome hereafter in other instances. It has brought to the front public purposes which must be considered in dealing with public utilities. In New York it will doubtless hasten the much-needed transit unification program, which has been blocked largely by the activities and influences of the particular company. It has already started a public demand for the retirement of the present Interborough management, which has been medieval in its attitude toward the public. The Supreme Court enjoys increased reverence from all intelligent and public-spirited citizens.

New York System of Commission Regulation to be Probed.—Following the *New York World's* editorials on the "Breakdown of Commission Regulation," and other similar criticism from various quarters, two bills were introduced in the New York legislature providing for the investigation of the present system of regulation. One of these bills was passed just before adjournment. It provides for a special commission of nine members: the temporary president of the senate, and two members appointed by him; the speaker of the assembly, and two members appointed by him; and three members appointed by the governor. The commission would have power to compel the attendance of witnesses and the production of books and papers, with the duty

> to make a thorough survey, examination and study of the public service commission laws of this and other states, for the purpose of ascertaining whether the public service commission law of this state accomplishes the objects for which the system of state regulation was established, and for determining what amendment or revision of the public service commission law is essential to guarantee to the public safe and adequate service at just and reasonable rates, to the stockholders of public service corporations, a fair return upon their investments, and to bondholders and other creditors, protection against impairment of the security of their loans; to recommend to the legislature any remedial or other legislation with relation thereto which it may deem proper as a result of its survey, examination and study; and to formulate and prepare or cause to be prepared a draft of any proposed legislation which may be recommended by it with reference to this subject.

The commission is authorized to engage such assistants as it may deem necessary, and to fix compensation within the amount of the appropriation of a total of $40,000. The members of the commission shall receive no compensation for their services, but shall be entitled to their actual and necessary expenses incurred in the performance of their duties.

While the scope of the bill is broad enough to carry out the purposes of the *World* and other critics of the present system of regulation, the size and manner of appointment of the commission might indicate an unwieldiness which would make "soft-pedaling" and "sidestepping" more easy than under a small commission consisting, according to the *World's* suggestion, of former Governors Hughes, Miller and Smith. Some of the groups interested, including the New York City Club, are urging the governor to veto the

bill, and then appoint a Moreland Act commission to go thoroughly into the matter. While they do not desire an attack upon the present personnel of the commission, they do wish a searching study of policies and methods to make regulation effective and sound. They fear that under the proposed commission no such thorough study would be made; that the evils of the present system would be largely glossed over; and that no investigation now would be better than a superficial report which would "whitewash" present conditions.

✻

New Stage Reached in New York Telephone Case.—On March 11 the special master of the District Court of the United States, Southern District of New York, found that the telephone rates for the state and city of New York, fixed by the public service commission in 1926, are inadequate. This is a notable case, because of its size and complexity, its great duration, the overlapping jurisdiction of state and federal powers, the issues involved, and the strenuous fight made by the city against an increase in rates.

The master adopted outright as the basis of "fair value," the reproduction cost of the physical properties, less the observed physical depreciation, finding both quantities as claimed by the company. He disallowed, however, part of the claim for working capital and going value; and rejected other large items. He held that the company is entitled to a return of 8 per cent upon the value as found. Both the company and the city, as well as the public service commission and the attorney-general, have filed objections with the court. After the court's decision has been made, we shall discuss in this department the principal facts and issues in their relation to proper standards of rate regulation.

✻

Power Authority "Out the Window."—Among the old Smith policies in New York taken over by Governor Roosevelt is the former's plan of power development. In a special message to the legislature, the governor proposed the establishment of a power authority through which the hydro-electric power of the state would be developed, especially the St. Lawrence project.

Governor Roosevelt added materially to the Smith analysis, by showing that the state would have to provide for a complete system, so as to assure rate protection to the ultimate consumers. He pointed out that the state could not rely upon the existing system of regulation to safeguard consumers against excessive rates. But the legislature paid scant attention to his proposal. For the time being, it is "out the window," but it will doubtless come back, to be thrown out again; but ultimately it may come back to stay, to be worked out in the interest of the public at large.

MUNICIPAL ACTIVITIES ABROAD

EDITED BY W. E. MOSHER

Director, School of Citizenship and Public Affairs, Syracuse University

National Planning in Electricity.—The eighth annual report of the electricity commissioners in England has just been issued. It covers the period from April 1, 1927, to March 31, 1928. As has been pointed out before in these columns, the duty of the electricity commissioners is to bring about a coördinated development of generation, transmission and distribution of electricity throughout England and Scotland. The chief feature of the period covered by the report is the adoption of two regional schemes, the one covering central Scotland and the other southeast England.

The commission warns the readers of the report that the proposed scheme cannot be accomplished immediately and suggests that five years will pass before the modifications in the main transmission system outlined for the two regional schemes are brought about. A further scheme for central England has already been completed and transmitted to the central board. A fourth scheme relating to northwest England and north Wales was at an advanced stage at the end of March, 1928. It is estimated that the total expenditure by 1934–35 will be in the neighborhood of twenty-seven and one-half million pounds and that the gross savings to undertakers will amount at this time to nearly seven and one-half million pounds.

Considerable space is given in the report to the methods of a sliding scale of price and dividend, under which the price is to be reduced accordingly as the standard rate of profit is exceeded. It is also pointed out that a stand will be taken against enterprises that depend upon a system of local taxes. The commission has adopted the normal practice of disallowing applications for such a system except under very unusual circumstances.

A special committee of the commission has been appointed to deal with the problem of making rates uniform. This is looked upon as an important measure because of the widespread variety of tariffs that are now maintained by selling agencies.

Considerable emphasis is laid on the matter of supplying electricity to rural areas. Although only about twenty-two per cent of the population of the country are resident in such areas, these comprise nearly ninety-two per cent of the total area of Great Britain. It is believed, however, that many distributors are expanding rural electrification in conjunction with municipal centers. The rural load is looked upon as a supplement to the urban load. Consideration is being given to the construction of low tension overhead transmission lines which under present specifications may be constructed at less than two hundred pounds a mile. A special agent of the commission has been appointed to devote himself exclusively to the problem of supplying the rural sections of the country with electricity.—*Municipal Journal*, February 22, March 8, and March 22, 1929.

❋

Municipal Insurance.—The trustees of the Mutual Municipal Insurance, Ltd., which is made up of associated governmental authorities, have rendered their annual report for the year 1928. Among the outstanding features of the report are the following: the funds of the association increased in the course of the year by £4,461, the premium income, after deducting the amount for reinsurance, totaled £60,464, while the net fire losses were £7,062. Extensive progress was made in the miscellaneous insurances department where the following risks are covered—fidelity, guaranty, burglary, motor vehicles, etc. All balances are assigned to the various reserves. The total of the funds on hand at the end of the year was £442,910. Among other things certain reductions of annual premiums are recommended. The total number of local communities insured in the mutual municipal insurance now is in the neighborhood of 1,100.—*Municipal Journal*, March 22, 1929.

❋

"Sports Physician".—During the past three or four years considerable attention has been given in Germany to the importance of guarding young people engaged in sports from danger of strain on the one hand, and of stimulating them to participate in sports that might aid in connection with underdevelopment and malformation on the other. The Union of German Cities

and other agencies have devoted special sessions and inspired special conferences to discuss this subject, having in mind the desirability of organizing under the auspices of the city a special office that would be properly equipped and manned for the purpose of giving physical examinations systematically to those who are engaged in sports. This movement has had the backing of the Prussian minister of public welfare. A center has already been assured in the city of Berlin.

It has been further recognized that in the organization of such advisory and examining centers special provision should be made for training courses that would equip physicians to undertake the responsibility of this work.

As far as the costs are concerned, the principle has been adopted that various organizations interested in sports should be called upon to meet the major expenses, but that contributions might well be made in the regular budget of the community concerned to stimulate the program and assist needy organizations.

The space and equipment necessary for the conduct of such examinations are described in full detail in the course of the article. Fees that are acceptable both to the organization of physicians and to the authorities are set forth. It is estimated that about a half hour will be required for the type of investigation proposed.

Finally it is recommended that there should be attached to the State Bureau for Young People an agency to serve as a clearing house for methods and experiences with the suggested examination.—*Zeitschrift für Kommunalwirtschaft*, March 10, 1929.

✻

Safety on the Streets.—Experiments have recently been carried on in Berlin and its vicinity as to the slipperiness of various types of street surfacing. Nineteen different varieties of tar and asphalt surfaces were suggested for a series of experiments in which automobiles with pneumatic tires were used. Surfaces were wet down at the rate of one liter of water to each square meter. The following factors were taken into account: bringing the automobile to a stop with the brakes, the path followed by the automobile during the application of the brakes, skidding and steering control. Here follow the names of some of the different materials used in the test: tar, bitumen, tar dressing, tar cement, Trinidad sand asphalt, asphalt cement, and a mixture of tar, asphalt and cement.

Among the noteworthy conclusions are the following: stamped asphalt when wet is peculiarly dangerous. By using rough surfacing such as tar and a mixture of tar and cement, the space necessary for bringing the automobile to a stop is much reduced. Tar surfaces in general are safer than bituminous ones; there seems to be less likelihood of skidding on such surfaces. It is unsafe for automobiles to exceed twenty kilometers an hour when stamp asphalt is wet. It is therefore recommended that the speed be reduced to fifteen kilometers an hour in order to avoid accidents. Streets already covered with stamp asphalt should be treated with a superficial surfacing of tar or bituminous emulsion which has been sprinkled with sand. It has been found that the application of a very slight tar covering with sharp sand gives a surprising amount of help. It is finally recommended that in laying new asphalt streets some treatment of the surface should be provided in order to reduce the danger of skidding.—*Zeitschrift für Kommunalwirtschaft*, February 10, 1929.

✻

Professional Standards.—A Royal Commission on local government is now sitting in England for the purpose of making recommendations concerning desirable changes in administrative practice, personnel administration, and other features of local government. At a recent hearing, representatives of the financial officers, the sanitary inspectors' association, and a society of clerks to urban district councils presented the opinion of these associations to the Royal Commission.

Financial Officers.—The opinion was expressed by the financial officers that the treasurer of any local authority should possess a recognized professional accountancy qualification as prescribed by the Minister of Health. It was their conviction that the chief financial officer should be appointed through promotion from a group of qualified accountancy assistants or transferred from another local authority. The appointment of any officer from outside the service who had not a diploma from the Institute of Municipal Treasurers and Accountants was deplored.

It was also recommended that in view of the fiduciary relationship between the treasurer and the rate-payers the financial officers should have the right of appeal to the minister of health against any notice of dismissal and that the decision of the minister should be final.

Sanitary Inspectors.—The representatives of

this group expressed the opinion that no appointment should be made unless the appointee had qualifications approved by the minister of health, as well as thoroughly practical training in the work of the public health department.

In the matter of recruitment the opinion was advanced that prospective sanitary inspectors should be persons who have a good general education, having reached the standards required for university matriculation, and, secondly, that this should be followed by a thorough-going practical training in all of the technical and administrative details of the inspector's work before the candidate is permitted to sit for a qualifying examination.

The Society of Clerks maintained that the promotion of a member of the staff of a common council was usually not feasible. This situation calls for appointment by transfer from some other district. On account of the necessity for practical experience it was suggested that no candidates from a university ought to be appointed to the office of clerk who had not had actual training in the administrative work of the office.

The representatives of this group outlined the duties of the position of clerk as involving responsibility for coördinating the various services of the council so as to avoid overlapping. Control by a single officer was necessary in the name of good standards of administration. To bring this about it was further urged that there should be allowed a reasonable discussion under the authority of the council. It was recognized that it is not proper for a clerk to criticize or interfere with the technical officer in the carrying out of the technical duties assigned to him.

With reference to the appointment of a head administrator, which has been suggested to the commission, the financial officers voiced the sentiment that "unless local government as is present known was set aside and the officer vested with authority such as would make him not only nominally but virtually a town manager, such appointment would conduce neither to economy nor increased efficiency".—*Local Government Service*, March, 1929.

*

Salary Standardization.—In a series of items concerning recent actions that have been taken with reference to service conditions in various local government units, six of eleven items have to do with the establishment of a standardized scheme of salaries that have recently been introduced or are on the point of being introduced.

As brought out in these items as well as other reports from the local government service it is evident that a marked movement is under way toward the absorption of the war bonus into the regular salary scheme. As is well known, both in the central government and among local authorities a special war bonus has been paid to public officials which varied in accordance with a fixed scale based on the fluctuation of the cost-of-living index figure.—*Local Government Service*, March, 1929.

GOVERNMENTAL RESEARCH ASSOCIATION NOTES

EDITED BY RUSSELL FORBES

Secretary

Recent Reports of Research Agencies.—The following reports have been received at the central library of the Association since March 1, 1929:

Bureau of Municipal Research, Akron Chamber of Commerce:
Report on Akron City Transportation Lines of the N. O. P. and L. Co.

Buffalo Municipal Research Bureau, Inc.:
The Mayor's Budget.

California Taxpayers' Association, Inc.:
Special Report on the Schools of Salinas, California.

Taxpayers' Research League of Delaware:
Delaware's General Budget for the Fiscal Years Ending June 30, 1930 and 1931.

Detroit Bureau of Governmental Research, Inc.:
The Pension Systems of the City of Detroit.

The Kansas City Public Service Institute:
Survey of the Metropolitan Police Department of Kansas City, Missouri.

✻

Boston Finance Commission.—During March the Boston Finance Commission held a public hearing, consisting of sixteen sessions, on the taking by the city of a parcel of land at State and Exchange Streets for the widening of Exchange Street. The area of the land was shown to be 11,158 square feet, and the assessed value, $1,485,000, the building having been removed by the previous owner. For the taking by eminent domain proceedings of 4,498 square feet, the city paid $1,750,000.

The Commission, in addition, made four reports to the governor and four to the legislative committees on pending legislation relating to the city of Boston, and one to the mayor of Boston on a departmental detail. The most important among these were: to fix the tax limit for the year 1929; recommending that the Long Island Hospital retain its original status as a hospital for the aged sick and poor; opposing by inference the seven-million-dollar project to fill in the South Bay, a water area lying between South Boston and the south end of the city proper.

California Taxpayers' Association.—The Santa Barbara County report has now come from the press. It contains more than two hundred pages of text, with more than two hundred tables, charts and illustrations. It took more than one year to complete the field work and the office work on this study.

A complete study of the income and disbursements of the state government of California is now ready for the press and will be printed serially in *The Tax Digest*, the official publication of the Association.

An exhaustive research on parks, playgrounds and recreational areas in southern California has just been completed. It is now in the hands of the printers.

A bill to legalize the photographic recording of public documents is now in committee. An earnest endeavor is being made to bring it to the floor of the legislature.

A study has been undertaken of the budgets of the fifty-eight counties in California. Arrangements have been made by the Association for a budget counselling service so as to enable each board of supervisors in the state to avail itself of the counsel of the Association's tax experts.

✻

Citizens' Research Institute of Canada.—An analysis of the cost of the Dominion Government for the year ending March 31, 1928, has been prepared, and a report thereon, giving comparative figures for previous years, has been issued.

A report is being prepared showing the relation of total taxation to production in Canada.

The first section of the 1929 edition of the *Red Book* (financial statistics of Canadian governments), is in course of preparation. This publication, which is issued at as near cost as possible, contains statistics of all Canadian urban municipalities and many suburban ones with a population of over 400. This series is now looked upon by the larger bond and investment houses as the standard work of its kind. In many cases the information contained in the *Red Book* is issued before the municipal treasurers' reports are in

print, but all the information is taken either from printed reports or signed statements by a responsible official or other sources. It also contains certain indicative standards by means of which the trend of financial affairs may be readily gauged. Most of the larger buyers of Canadian municipal securities, such as banks and insurance companies, as well as the investment houses, now subscribe for the service.

❦

Taxpayers' Research League of Delaware.—The present session of the Delaware legislature may go down in history as the "mileage session." This is largely the sequel of the League's investigation of the "claims" bill passed by the legislature two years ago. That appropriation bill, as disclosed by the League, attempted to pay unconstitutional salaries to the members, and mileage for every day of the session at the rate of 10 cents a mile. As a result of the League's investigation at that time, the governor vetoed the mileage items in the "claims" bill.

Early in the session, the present legislature appropriated approximately $25,000 for mileage to the members of the 1927 legislature. This was vetoed by Governor Buck and an advisory opinion was obtained by him from the judges of the state courts, that the members of the legislature were entitled only to reasonable traveling expenses actually incurred. As a result of this judicial opinion, the mileage appropriation for members of the last legislature was reduced to approximately $14,000. The final basis of payment was 10 cents a mile per day to each member of the legislature traveling in his own automobile, and 3½ cents to those traveling otherwise. The mileage controversy has occupied an entirely disproportionate part of the legislature's attention, to the serious detriment of more important and less personal questions.

The increased appropriation for public schools, requested by the state board of education at the suggestion of the Taxpayers' Research League of Delaware, has been granted by the legislature, thus assuring more adequate support for the school system during the coming biennium.

The League's recommendation for the consolidation of special funds has been considered by the legislative budget committee in conference with administrative officials, and a program has been worked out and adopted for the consolidation of a number of minor funds.

The League's recommendation that the various agencies collecting state revenue make daily (instead of monthly) deposits with the state treasurer has been voluntarily accepted by the secretary of state and the state school tax department, which between them collect more than half the state's revenue.

The League prepared several amendments to the budget law of 1921 to modernize the budget procedure of the state. These amendments were defeated through a combination of those resenting the action of the League in investigating the claims bill two years ago, and the part played by Governor Buck in compelling the reduction of the mileage allowances in the present session. At this writing, an effort is contemplated to secure the reconsideration of the amendments.

Russell Ramsey, the director of the League, has served as a member of the legislative committee of the Wilmington Chamber of Commerce during the present session of the legislature. Through this association, the League has coöperated with the chamber of commerce in the examination of a number of bills pending in the legislature.

❦

Kansas City Public Service Institute.—The time of the entire staff of the Public Service Institute was given to the police survey which the Institute conducted for the Kansas City Chamber of Commerce under the direction of August Vollmer. The survey was completed, submitted to the chamber, and approved by the chamber board. The survey was quite comprehensive, covering the crime situation, organization of the department and distribution of the force, personnel, buildings and equipment, and record system and finances. The report recommends an almost complete reorganization of the department, including methods of operation, personnel methods, new equipment, new records, and improvement of housing. Distribution of the report is in the hands of the Kansas City Chamber of Commerce.

The permanent registration bill, also promoted by the Chamber of Commerce and the Public Service Institute, is having a hard time getting started in the legislature. All parties concerned, including members of the legislature and the governor, seem to be favorable, but for unexplained reasons the committees have not yet reported the bill.

❦

Citizens' Bureau of Milwaukee.—A study of the fees and commissions paid out by the court is in progress. The problem is to determine

whether it is feasible to increase the permanent staff of the county institutions and county dispensary so as to perform this work, and at the same time to develop the present activities. In 1925, $35,000 was paid in physicians' fees.

A report was released to the public, explaining the bond issue to be voted upon April 2 for the purpose of building the nucleus of a high pressure pumping system for the fire department. The request is opportunely made, since the pumping station represents an alternative to the replacement cost of a fire boat recently condemned.

The staff is following the progress of two bills, which it prepared, and which are intended to simplify consolidation and annexation procedure. The bills providing a state budget procedure and highway commission reorganization, both of which the Bureau helped to draft, have been passed by the senate.

*

The Ohio Institute.—The state director of finance of Ohio has contracted with Searle, Oakey, and Miller of New York for the installation of a new general accounting control system. Preliminary work has already been begun.

A new form of general appropriation act for the biennium 1929–30, embodying the "lump sum" and allotment principle, instead of the former detailed segregation of items, was presented by the director of finance and passed by the Ohio General Assembly.

*

San Francisco Bureau of Governmental Research.—The proposed employment classification, to be used as a basis for standardizing municipal compensation, in the preparation of which the Bureau has been coöperating with the civil service commission, has been revised and was resubmitted to the board of supervisors on March 18. Revisions were based on additional data and information presented by representatives of employees to a committee of the supervisors during a series of hearings that extended over a period of six months. If the proposed classification is adopted by the supervisors, the way will be paved for the second and final step—the determination of salary and wage rates to be fixed as "standard" for each of the job classifications.

During the period since the Bureau's last report in these columns, studies of assessment roll procedure, which were being conducted in coöperation with the assessor, have been brought to a temporary conclusion. The assessor has adopted forms and procedure under which the personal property assessment roll for 1929 will be written and totaled by office mechanical equipment. This system will be extended next year to provide for the automatic writing and mailing of personal property declaration forms and the mechanical writing and totaling of the whole assessment roll.

The Bureau, in coöperation with the purchaser of supplies, the city auditor and the chairman of the finance committee, has prepared an ordinance designed to carry into effect the provisions of a charter amendment adopted last November under which the city can pay its bills for materials, supplies and equipment with sufficient speed to take advantage of cash discounts. It is proposed that the new system, in addition, will provide for the centralized preparation of all purchase orders in the office of the purchaser of supplies and for the auditor's certification of purchase orders and the encumbrance of funds therefor before such orders may be issued.

The Bureau staff is now engaged in the final stages of a report dealing with scavenger collection service, rates and regulation. This work was undertaken at the request of the board of health and has been in progress for about fifteen months.

The Bureau staff is also bringing to a conclusion the first stages of a study and report on the city's license collection procedure, which has been carried on at the request of the tax collector and the chairman of the finance committee. The first stage will deal with possible improvements in existing procedure and the later phase of the work will involve the analysis of businesses licensed and of license rates in comparison with similar data in other cities.

Other major work projects include progress on a study of street reconstruction and repair organization, procedure, costs, etc., which has been under way for nearly a year, and coöperation with a citizens' committee in various phases of work involved in an analysis of salaries paid to San Francisco teachers.

*

Schenectady Bureau of Municipal Research.—Considerable assistance has been rendered to the capital budget commission in its work of preparing a long-term improvement program for Schenectady. The commission is entering the final stages of its work and a preliminary draft of the final report is being prepared by the man-

aging director of the Bureau who has been acting as secretary of the commission. It is expected that the final report will be submitted to the mayor and common council before May 1.

*

Toledo Commission of Publicity and Efficiency.—The newly formed traffic problems in an ex officio and advisory body, has stimulated increased consideration of traffic problems in Toledo. The Commission of Publicity and Efficiency has started and has partially completed several studies on the question of a parking ban in the down-town district. This study, to be published later, will include an analysis of cars parked in the down-town district as to length of time for which they are parked, point of origin, owner's occupation, number and type of parking violations, and, probably most significant of all, a survey of customers' modes of transportation. On the basis of these studies, concrete recommendations to the traffic commission for further action will be formulated.

An investigation of milk inspection in Toledo during the past year resulted in the dismissal of the chief milk inspector. It was found that high bacteria counts were regularly thrown out for two companies, and several other companies were quite regularly raised.

*

Bureau of Civic Affairs, Toledo Chamber of Commerce.—A map showing the recommendations of the Bureau of Census Association on the boundaries of the metropolitan district of Toledo has been forwarded to the United States Bureau of the Census. The area included, outside the city limits, is approximately five times as large as the area of the city of Toledo. The factors considered in determining the metropolitan area were the number of commuters on both steam and electric railroads, regular free retail deliveries maintained by Toledo stores, power and light service, city water mains, real estate operations, residential club membership, and the area in which daily collections are made from Toledo. The metropolitan district of 220 square miles contain portions of nine townships in three counties, including two townships in Michigan. The Bureau of the Census will use the map in determining the portion of the Toledo metropolitan district.

The Chamber of Commerce has also been active in urging a constitutional amendment for Ohio, relative to county government. The proposed amendment empowers the legislature to reorganize the existing form of government; to provide for optional plans of county government which may be adopted upon the approval of the electorate of the county and various voting districts within the county; and to pass legislation giving counties power to frame a charter in a manner similar to that granted cities by the home rule amendment to the constitution.

*

Toronto Bureau of Municipal Research.—A report on *Civic Financial Control, Story No. 4*, giving a tabulated result of all of the financial operations in which the city has an interest, has been prepared and issued.

A résumé of the report of the advisory city planning commission was prepared and issued. This outlines the main features of some special proposals, as well as the general scheme, and includes plans. A questionnaire was added, seeking the opinion of readers on the question.

The director, at the request of the taxation committee of the local board of trade, has prepared a brief in connection with the income tax problem.

AMERICAN MUNICIPAL ASSOCIATION NOTES

EDITED BY JOHN G. STUTZ

Executive Secretary

DATE OF ANNUAL MEETING

The date of the sixth annual meeting of the American Municipal Association has been set for November 14, 15, and 16, at Chicago, Illinois. The meeting place in Chicago has not been designated. The National Municipal League, the Governmental Research Association, and the Civic Secretaries will hold their convention in Chicago, November 12, 13, and 14.

MR. ZANDER SECRETARY IN WISCONSIN

We are pleased to report the appointment of A. S. Zander to the position of secretary-treasurer of the League of Wisconsin Municipalities. Mr. Zander assumed his duties on January 1, 1929. He is a graduate of the School of Engineering in the University of Wisconsin, he has had experience in several engineering positions, has taken graduate work in political science and city planning at the University of Wisconsin, and is at present assisting in faculty work in the college of engineering.

NEWS FROM THE STATE LEAGUES OF MUNICIPALITIES

Illinois.—A. D. McLarty, secretary of the Illinois Municipal League, reports that the ordinance revision service of the Illinois League is being very well received, and recommends that other state leagues establish similar services.

The sixteenth annual convention of the Illinois Municipal League will be held in Jacksonville during the middle of October, 1929. Three or four hundred delegates are expected. The municipal officials of Illinois are coming more and more to realize the value of these conventions—that they are in the nature of graduate courses in municipal affairs rather than pleasure and junketing parties.

Oklahoma.—The Oklahoma League is making a study of municipal ownership of light and power plants within the state. This material is to be published as a bulletin, June 1. A study is being made, with the coöperation of government teachers and students of the university, of the origin of the names of the cities and towns in Oklahoma and the legend or myth responsible for the names. Results of this survey will later be published in a special bulletin or as an article in the REVIEW. In addition to this, the League is making a general survey of the member cities, seeking statistical material on total costs of police protection, fire protection, health protection, garbage and refuse disposal, sanitary sewers, parks and playgrounds, salaries of city managers, clerks, councils, attorneys, mayors, health officers, assessed valuations, and bonded indebtedness. This material will also be published soon.

An ordinance revision service has been launched by the League, under the supervision of Professor W. C. Bryant, lawyer and teacher in the government department of the University of Oklahoma.

Minnesota.—Morris B. Lambie, executive secretary of the League of Minnesota Municipalities makes the following report:

"Special bulletins published include four legislative bulletins reporting the status of the bills introduced in the legislature with special attention to the legislation in which the League is especially interested. The bills supported by the League are all advancing satisfactorily but as yet no definite decisions have been made by the legislature upon them.

"Bulletins planned are: tax rate bulletin, water rate bulletin, public utility rates, proceedings of the Northwest Fire School, proceedings of the Northwest Dairy Inspectors Conference, and proceedings of the Minnesota Tax Conference.

"We are giving increased efforts to the establishment of schools and conferences for municipal officials. The first conference of dairy inspectors was held on January 23; the public utility conference sponsored by the League will be held on March 29, a Northwest Police Conference will be held in July; and the Northwest Fire School will be held in September. The annual convention of the League will be held at Austin, Minnesota, June 12, 13, and 14."

Michigan.—Harold D. Smith, director of the

Michigan Municipal League, reports that the chief concern of the League at this time is to prevent the passage of legislation inimical to the interests of the cities and villages and to assist in formulation and passage of laws which the municipalities desire.

The League's committee, appointed to revise the Home Rule Act which had become a "hodgepodge" on account of frequent amendments and additions, has introduced a bill which will probably pass as introduced.

Another item which may be of interest to those outside of the state concerns the election code. Prior to the meeting of the legislature the governor appointed a commission to revise the election code. One item, however, of particular interest, is the incorporation in this code of provisions for permanent registration. The League of Women Voters has been very active in advocating a system of permanent registration and should be given credit for initiating the movement. Professor Joseph P. Harris of the University of Wisconsin and Senator Claude H. Stevens, city attorney of Highland Park, and chairman of our Committee to Revise the Home Rule Act, drafted the bill. While some of the officials of the smaller municipalities feel that the bill lays down requirements unnecessary in the smaller places where the clerk knows who is entitled to vote, yet these objections do not seem sufficient to jeopardize the passage of the proposed act. It may, however, be made optional so that the various municipalities may adopt permanent registration by ordinance. Michigan has required re-registration of all voters every presidential year and it is felt that permanent registration will not only be more economical but more convenient to the voters.

A bulletin on the salaries of village officials is nearly ready for distribution.

Texas.—Harvey W. Draper, executive secretary of the League of Texas Municipalities, reports as follows:

"It has been the endeavor of the League of Texas Municipalities rather to keep down legislation than to have it passed. We have so far successfully withstood all attempts of proponents to pass any sort of uniform public utility regulation bill. We got the public utilities and the 'wild-eyed' proponents of rabid legislation of this character to fighting among themselves and it killed the bill for the regular session. However, a special session of the legislature will be called about the middle of April or the first part of May and we expect to have to fight the battle over again as Governor Moody has stated that he will include public utility regulation in his call. We have also defeated a measure placing ice factories under the Texas Railroad Commission. This was an effort on the part of ice manufacturers, many of whom are also public utility owners, to have the state guarantee them a reasonable return on obsolete ice plants. This movement on the part of ice manufacturers has been brought about by the rising tide of mechanical refrigerating appliances now on the market at very reasonable figures."

Colorado.—Don C. Sowers, secretary of the Colorado Municipal League, reports the following items:

"Starting with December we have been printing sections of our survey of civic conditions in cities of over 2,400 population, and these will be reprinted as a separate bulletin.

"We are endeavoring to have state highways located within the limits of incorporated cities, built by the state highway commission and to exempt municipal trucks and cars from paying the state gasoline tax.

"We print 1,300 copies of the magazine each issue and it is on a monthly basis now. Lee Johnson, our business manager, resigned in January to become editor of a daily paper in Delta, Colorado, and he has been succeeded by L. Roy Purdy. No change was made in our advertising rates and each month shows a small growth in advertising."

New York.—W. P. Capes, executive secretary of the Conference of Mayors of New York reports that his organization has organized and operated ten zone police training schools with an average weekly attendance of 2,062 policemen, and is now establishing twelve zone training schools for the firemen of the cities and villages of the state.

At the request of the Governor, a study is being made of the food distribution problem. Three model ordinances, one on traffic, one on regulating the platting of sub-divisions, and one on sidewalk vaults, have been prepared. A revision is being undertaken of the bureau reports so that in future no report will be less than two years old. A complete revision of the General Highway Traffic Law was prepared and sent to the state legislature. A municipal legislative program was prepared, most of which has passed the state legislature.

The Conference of Mayors and the State

Housing Board are jointly preparing a model building code, a model housing code, and a model zoning ordinance. The Conference is preparing the final draft of its model city sanitary code.

New Jersey.—The New Jersey State League of Municipalities has just held a most successful convention at Trenton. More than five hundred were present.

A special feature was made this year of the departmental meetings, and new groups of municipal engineers, municipal assessors, and building inspectors were started. It is hoped through the Building Inspectors' Association to prepare a model building code. The clerks, tax collectors, and attorneys continued their activities as groups. The municipal attorneys hold monthly conferences, mostly in North Jersey. The State Association of Chiefs of Police, a strong organization, met with the New Jersey League for the first time, and close coöperation is hoped for between the two organizations in future.

The New Jersey League legislative committee is meeting weekly and has passed upon a hundred or more important bills. Results are sent each week to the mayor, clerk and attorney of all the member municipalities. The League is gaining in prestige and power in the legislature, due to its scrupulous attitude and refraining from politics.

Pennsylvania.—The Pennsylvania State Association of Boroughs held its nineteenth convention at Harrisburg, February 19 and 20. About seven hundred delegates were in attendance.

The Pennsylvania State Association of Township Commissioners held its fourth annual convention at Harrisburg, January 15–16, 1929.

The Pennsylvania State Association of Planning Commissioners held their fourth annual conference at Williamsport, Pennsylvania, February 22–23, 1929.

Union of Canadian Municipalities.—Samuel Baker, secretary-treasurer of the Union of Canadian Municipalities, reports that the following bulletins have been issued since June last:

(a) Fact-Finding in Labor Disputes.
(b) Industrial Fact-Finding as a Function of Government.
(c) Report on Street Signs.
(d) A Liberal Industrial Policy.
(e) Modern Fire-Fighting Equipment.
(f) A report on terms of office of municipal officers in Ontario.
(g) Saving Time and Money for the City in Condemnation Procedure.
(h) The Preservation of Peace.

Kansas.—The session of the legislature which just closed was one of the most interesting in the history of the state. The League was successful in securing the passage of several bills which it sponsored. Among these was a bill giving to the cities $250 per mile for streets constituting connecting links in the county highway system. This law is a companion law to the law which gives cities $250 a mile for streets constituting connecting links in the state highway system. A law was passed which permits cities of the second and third class to annex territory. A supreme court decision handed down in 1926 declared the then existing law unconstitutional. The League sponsored a bill in 1927 but it was vetoed by the governor, who misunderstood some of its provisions. The lack of authority to enlarge their territory has worked a hardship on several of the growing cities of the state. A public utility law of considerable importance was passed. It places the venue of appeals from the decisions of the public service commission in the local district courts rather than in the court of the county in which the state capital is located. Cities of the second and third class have until October to fund their outstanding warrants and other floating indebtedness. This will assist many of the smaller cities very much. A bill permitting cities to establish airports within or without the city limits and to levy taxes for maintenance and to issue bonds for the payment of the land and equipment was passed.

It is interesting to note that a resolution to amend the constitution to give cities power to adopt home rule charters, which was prepared by the legislative committee of the League in 1915, was introduced at this session of the legislature. The bill was introduced during the latter part of the session and was voted down in the house in which introduced because the members did not have time to fully digest its provisions. The resolution was amended and simplified and reintroduced. It passed the house with an almost unanimous vote, but was not reported out by the judiciary committee of the senate. The sentiment for home rule is very strong at this time.

The auditing department has completed its ninth audit since the first of the year, and has some six jobs contracted for. The legal department is completing revisions for the cities of Great Bend and Oxford.

NOTES AND EVENTS

Detroit Rejects Subways.—On April 1 Detroit voters overwhelmingly defeated the first subway construction proposal ever submitted to them, by a vote of 90,439 to 35,416. The proposal was in the form of a $54,600,000 bond issue to pay for the construction of 15.06 miles of subway.

The favorable vote represented only a fraction over 28 per cent of the total. Sixty per cent was required to win.

For several years, the rapid transit commission of Detroit has been working on plans for the improvement in transportation facilities. In August, 1926, it presented a plan involving two-track train subways and a modern overhead system totalling 46.6 miles, to cost $279,600,000. In February, 1927, an alternate plan was presented, calling for 27.1 miles of subway, to cost $135,000,000. For several reasons, among which were the economic conditions prevailing in 1927, the large cost and the method of financing involved, neither proposal was submitted to the voters by the city council. Accordingly, in January, 1929, the rapid transit commission and the street railway commission jointly proposed a further alternate involving the construction of 13.3 miles of train-operated subway and 2.03 miles of subway for street car use, to cost $54,600,000. This latter was the defeated plan.

Reasons for the defeat apparently included dissatisfaction with the financing plan, the feeling that special assessments would be inadequate to pay 51 per cent of the total cost as proposed by the rapid transit commission, so that an additional general property tax would be required to pay the cost; the belief that the system of "dips" favored downtown merchants at the expense of outlying neighborhood stores; and that other less expensive means of transit had not been given proper consideration.

HOWARD P. JONES.

⚜

Important Crime Bills Pass in New York—Others Fail.—At the close of the 1929 legislative session in New York State, only one half of the bills presented by the New York State (Baumes) Commission had been passed. The more important of those enacted were the following:

1. A simplified form of indictment which will make lengthy recitals unnecessary.
2. Psychiatric clinics established in general sessions courts of New York City.
3. Suspension of the statute of limitations in criminal cases as soon as prosecution is initiated.
4. Constitutional amendment which will permit the establishment of district courts to exercise the petty criminal jurisdiction now vested in justices of the peace.

Among the more important bills which were caught in the legislative jam during the closing days of the session, and which therefore failed of passage, were the following:

1. Constitutional amendment permitting accused to waive jury trial in felony cases (except first degree murder).
2. Constitutional amendment which would permit accused to waive formal indictment.
3. Placing municipal police schools under state supervision and requiring training of all police officers.
4. Permitting district attorney to comment on failure of accused to testify in own behalf.

The Crime Commission has been continued to March 1, 1930, with an appropriation of $50,000.

BRUCE SMITH.

⚜

Philadelphia Grand Jury Reports on Crime and Corruption.—Philadelphia's special grand jury, recently discharged after seven months of painstaking investigation, reports a definite and precise relationship between traffic in liquor, gang murders, and police corruption in the Quaker City.

Industrial alcohol plants are legally organized and operated. Illicit diversion is quite common, but large quantities of denatured alcohol are sold as permitted by law, to perfumeries and other establishments, technically called "cover-up" houses. From these "cover-up" houses the bootleg liquor is distributed through the regular marketing agencies so familiar to the Philadelphia public.

The final price which a Philadelphian pays for his rum or whiskey must be large enough to cover the following items:

1. Cost of manufacturing.
2. Bribes for railway officials.

3. Cost of transportation under heavy guard.
4. Gangsters' salaries and occasional funerals.
5. War materials (machine guns, bullet-proof vests, etc.).
6. Patrolmen's bribes and officers' retainers.
7. Enterprisers' profits.

The grand jury report shows that all of the advantages of large-scale production and division of labor apply in the bootlegging trade, in the transportation and marketing end of the business as well as in the manufacturing. A Mr. Goldberg maintained an arsenal on Market Street near City Hall, making a perfectly legal specialty of selling machine guns and bullet-proof vests. Accounting firms were hired to do sums with policemen, and at least three large investment corporations were especially organized to make necessary loans and to provide an innocent outlet for the immense profits of the business.

But in these days competition is not the life but the death of trade. Warfare broke out between the gangs of thugs engaged to protect the lives and property of rival "enterprisers," and Philadelphia ran Chicago a close second in machine gun murders.

While it was possible to describe the workings of the Philadelphia underworld, to close dozens of speakeasies, and to expose scores of ordinary cops, the "higher-ups" could not be indicted by the grand jury. According to District Attorney Monaghan, "they were missed only because police and other persons involved refused to give us the information which they possessed and which we sought to enable us to indict and prosecute." Max (Boo hoo) Hoff, for example, known in Philadelphia as the King of Bootleggers, is described in the grand jury presentment as "unquestionably one of the leaders of the liquor organization in this city. He has so protected himself that his individual name seldom figures in their transactions. He operated through trusted agents and dummies."

The grand jury insists that when Philadelphians patronize bootleggers and willingly furnish a market for their product, they are thereby encouraging gang warfare and police corruption. It further recommends that the police department be entirely freed from all political control. Aside from the Committee of Seventy and its following, this exposé has not disturbed Philadelphians in their content, nor has it alarmed City Hall in its corruption. Even while the grand jury was being commended and discharged in Philadelphia, the CM-PR bill was being quietly interred in committee in Harrisburg.

MAYNARD C. KRUEGER.
University of Pennsylvania.

Notes from Los Angeles.—*District Attorney.*—Complaints about the situation in the office of Asa Keyes, district attorney of Los Angeles County, were given an airing by the grand jury which went out of office within a few weeks. Ever since Amie Semple McPherson, woman evangelist who was first reported drowned, then kidnapped, was being prosecuted for conspiracy, there has been more or less question about the conduct of the district attorney's office. Her case was dismissed and eyebrows were raised. Then came the famous Julian cases which created a tremendous commotion. In spite of what seemed to be great enthusiasm in the prosecuting offices of city and county, something happened and, so far as the public was concerned, there was bred more suspicion that everything was not as it should be. Several other cases fanned the suspicion.

The recent grand jury, after hearing from a tailor who kept a diary, indicted the chief prosecutor for bribery. Mr. Keyes' term was almost closed, and his successor had already been elected. This successor was Buron Fitts, lieutenant governor, who had begun his public career in Asa Keyes' office. A veteran of the World War, in public life because of veteran support, the new district attorney found himself confronted with a battle with his former chief—a man who had been in the prosecutor's office for a generation.

The case of Asa Keyes has received widespread attention. He is under sentence at this moment to a term in the state penitentiary of from one to fourteen years for soliciting and accepting bribes in the conduct of his office. The popular demand in Los Angeles is that Prosecutor Fitts continue to clean house.

Judge Carlos Hardy.—Meantime as another aftermath of the McPherson case, Judge Carlos Hardy of the Superior Bench is now experiencing impeachment proceedings before the state senate. It is asserted that while on the bench he received from the Angelus Temple authorities a fee of $2,500 for legal advice. Testimony from Mrs. McPherson called the check a love offering.

Department of Water and Power.—Recent resolutions passed by the water and power authorities of the city have had the effect of con-

solidating the bureau of water works and the bureau of power and light into one unified organization under one general manager. Former Chief Engineer Van Norman, successor to William Mulholland, builder of the aqueduct, becomes the general manager of the department. E. F. Scattergood, former chief engineer and manager of the power bureau, becomes the chief electrical engineer of the unified department. The board of water and power commissioners is quoted as believing that this unification and consolidation of the two semi-independent bureaus will make for a higher degree of general efficiency.

Metropolitan Water District.—With the passing of the Boulder Dam Bill by the last Congress, the metropolitan water district created by the former legislature finds a big undertaking ahead of it. Eleven cities are formed together as a water district which expects to build a new aqueduct to the Colorado River. Recent news that Utah had finally signed the so-called Six-State Colorado River Compact served to hasten the permanent organization of the district. In this connection it should be noted that Arizona has served notice that it will fight the Boulder Dam Bill in the courts. C. A. Dykstra.

*

"They Ain't No New Tammany."—Tammany Hall is making history. Ten years ago Mayor Hylan, though not a member of that organization, seemed safely entrenched in its affection. The district leaders were all comfortably established in lucrative city jobs and when anyone suggested ousting Hylan, their answer came back, "What do yer want to change fer? Ain't we all right the way we are?"

But Al Smith didn't think so. He was nursing a tiny presidential bee in his brown derby, and he knew that with Hylan still in office his local organization would have a lot to answer for. The result, to make a long story short, was "Jimmy" Walker, New York's well-traveled and well-beloved son. Despite the great difference in personality and appeal of the two mayors, as mayors they have much in common. The one through lack of capacity, the other through lack of application and an unwillingness to lose any of his many friends, seem quite incapable of bringing any of the city's pressing problems to solution. Moreover, the same group of district leaders have been continued in office and again, they ask, perhaps more insolently, "Wadde yer wanna change fer?" The cleavage between Smith, leading his New Tammany forces, and the old-timers in the organization has been embittered by accusation current since November that they "ran out on him." Al Smith lost New York state in his own city, indeed right in Tammany's own stronghold where his vote fell far below expectations.

Olvany, amiable and competent lawyer, had been the moderator. He tired of taking abuse from both sides. He has made plenty of money in the last few years. His law firm has done a land-office business. Clients flocked to it without soliciting. Many of the leaders were jealous of this. He is really, despite his ruddy appearance, in none too good health. We may never know exactly what took place in Albany the night of the reporters' dinner, when he and Smith and Walker and others did some plain speaking to one another in the privacy of his rooms, but he came back to New York the next day and surprised even his most intimate political and legal associates by resigning.

The district leaders saw an opportunity to seize control. They have the choosing of the city leader who, once chosen, is likely, if he has it in him, to become boss. There are thirty-three of these leaders, each with a female understudy, though the latter has little part except in the formal party councils. Thirty-three candidates speedily dwindled to six, and of these two emerged, Curry of the west side (Hell's Kitchen), and McCue of the east side, former saloon-keeper and welter-weight champion, leader of Charley Murphy's old gas house district. The first election ended in hopeless deadlock. After several weeks of conferences, Curry won by 12⅙ votes to 10⅓ for another candidate in whose favor McCue withdrew. The election of Curry, an ancient opponent of Olvany and Smith, appears to many to mark the eclipse, perhaps the political extinguishment, of Al Smith and his New Tammany. Mayor Walker played an active, possibly a determining part in the result and the victor promptly promised his renomination. The five-cent fare decision, coming while the leadership hung fire, strengthened Walker's hand and made his reëlection little short of certain. The Republicans might as well move that the secretary of Tammany Hall be instructed to cast one ballot for "Our Jimmy." Joseph McGoldrick.

*

City Manager Forces Victorious in Indiana Legislature.—Indianapolis adopted the city manager plan by referendum in June, 1927. Much of the opposition in that campaign cen-

tered about provisions of the statute giving cities the option to operate under the manager plan. Immediately after the successful referendum, the Indianapolis City Manager League appointed a committee to study the statute and draft such amendments as would remove all question, and at the same time make the law more complete, bring it up to date, and free it of some ambiguities.

To strengthen further their position in the legislature, the Indianapolis City Manager League induced outstanding citizens of both parties to become candidates for the legislature in Marion County, and carried on an active campaign in the May primary for these tickets. The result was that the entire delegation in the senate, excepting one hold-over senator, and seven of the eleven members of the house from Marion County were favorable to the manager plan.

The bill prepared by the committee was introduced simultaneously in the house and the senate. The speaker of the house was favorable and appointed a committee on the affairs of Indianapolis from the friends of the city manager plan. The opposite was true in the senate, where the committee was composed almost wholly of the enemies of the plan. But after long delay in the senate committee, the bill became law.

Proportional representation was included in the original bill, but it was stricken out early by friends of the plan, for fear it would be held unconstitutional. The principal changes made in the old law relate to the grant of power to the commission; the preservation of the park board and the sanitary board as separate taxing units; and the appointment of election commissioners. Under the amended law the city manager appoints the park board and the sanitary commission. The election commissioners are three in number, one to be appointed by the judge of the circuit court, one by the city commission, the city clerk to be the third. This will tend to take the city elections out of the hands of the political organizations.

The results show the wisdom of the steps taken by the Indianapolis City Manager League in bringing out the proper kind of candidates for the legislature, and in fathering certain amendments to the statute. Had these things not been done, the law would either have been wholly repealed, or amended so as to be unworkable.

J. W. Esterline.

Legislature Defeats City Planning Bill for New York City.—Mayor Walker was a very promising candidate. In particular he promised much in the way of charter reform. To date he has little to show except a report of his committee of 500 citizens already discussed in these columns. His term, apart from a praiseworthy consolidation of the city hospitals under one department, bids fair to end without substantial accomplishment in this field.

Mayor Walker has always delighted in the phrase "city planning." In his after-dinner speeches to the city's numerous civic groups it has afforded him many a flight of poetic fancy that might easily be mistaken for vision. References to it have never failed to evoke commendatory editorials. And Walker is nothing if not well-meaning. To prove he meant business, no less an authority than E. M. Bassett was called in to draw a bill for a planning board. With some minor changes dictated by the exigencies of local politics the stamp of the administration's approval was put upon Mr. Bassett's efforts. The bill was given to a Brooklyn assemblyman, young but thoroughly seasoned in legislative routine. The Republicans in the legislature this year put the public interest completely out of sight and resolved to do nothing that might help their Democratic opponents. Not until they were convinced that the Democrats did not want this bill did they show any disposition to pass it. This was on the closing day of the session. The putative father of the bill, anticipating this strategy, saw fit to be absent.

When the Republican floor leader asked whether the Democrats were ready to move its passage, the colleagues of the introducer protested that legislative courtesy was against action without the bill's sponsor. And so the bill died, for the sponsor could not be found until he appeared in dinner clothes after adjournment for the jollification that follows that happy event. He explained that he had been in a 'phone booth all day trying to get Mayor Walker. It may be sufficient to add that the borough presidents were opposed to the bill and that the Brooklyn borough president is the brother-in-law of the Brooklyn boss, McCooey.

The bill created a board of three members and the chief or consultive engineer of the board of estimate *ex officio* to advise that body on all planning matters, hold all hearings, related to planning, formerly held by the board itself, and prepare a city plan. The recommendations of

the planning board could be rejected only by a two-thirds vote.

A second product of the mayor's devotion to city planning was a proposal to set a sanitary board of three members to have charge of all problems of sewage disposal and the collection and disposition of other refuse. The chairman of the board was to be head of its administrative staff, but the board itself was to designate the heads of the two major divisions into which its work was to be divided. The board also was to be charged with the unpopular task of choosing sites for disposal plants and incinerators. Some such handling of these kindred problems is badly needed. At present this work is decentralized. The sewers are under the jurisdiction of the five borough presidents, and, though there is a city department of street cleaning, the boroughs of Queens and Richmond handle their own ash and garbage removal. The engineering and public health arguments for a concentrated and invigorated treatment of these problems was reinforced by scandals in both sewers and street cleaning and public opinion seemed ripe for a change.

Again politics interfered. The borough president of Queens had expressed his willingness, nay eagerness, to be relieved of these menial duties, but when his political superiors reminded him that 2,000 jobs were involved, he thought he was entitled to change his mind. And so his party brethren smothered the bill in committee.

The Democrats also had a political axe to grind with the bill. General Berry, the city comptroller, having moved from Brooklyn to the less populous borough of Richmond, is politically ineligible for a place on the general city ticket this fall. But there would be a great demand for his retention, from civic and business groups, if he were to be cast into exterior darkness. There was a more or less tacit understanding that he would be put at the head of this sanitary body, a post for which he is eminently suited.

The failure of this bill, more than that of its companion, puts the mayor in a hole. He has, therefore, promptly introduced it in the city's municipal assembly to be passed under the city's home rule power. As a matter of fact, both of these bills should properly have been treated at home, but, because they curtail the powers of elective officials (principally the borough president's), they would require a referendum at the November election. It seemed easier, therefore, to seek an emergency message from the governor and endeavor to put them through the legislature by a two-thirds vote. General Berry will therefore be in doubt as to his fate until the outcome of the referendum is known. Meanwhile another will have been chosen for his present place. The suggestion offered above, that the mayor is none too passionately devoted to his planning board bill, is perhaps borne out by his failure thus far to introduce this measure in the municipal assembly.

JOSEPH MCGOLDRICK.

⚜

Philadelphia Charter Bill Defeated.—The bill before the Pennsylvania legislature to allow Philadelphia to adopt the city manager plan with proportional representation by popular vote, which was described in the March issue of the NATIONAL MUNICIPAL REVIEW as having a chance of passing, was finally smothered in characteristic machine fashion in the senate committee on municipal affairs.

Shortly after Senator Salus, a leader of the "100% Vare" forces, had introduced the measure, and after Albert M. Greenfield, aspirant for the throne of the Philadelphia Republican organization, had given various indications that he would not oppose it, there came a sudden change in the political weather. Recorder of Deeds Hazlett, chairman of the Republican City Committee, announced that harmony had been restored and that Mayor Mackey's administration had the full support of the Republican Party. This was at first interpreted as a surrender to the "new power," but it soon developed that, at least temporarily, the exact opposite was true. The Vare forces were still in control and no longer feared Mr. Greenfield. They accordingly lost interest in the city manager bill, or rather, developed an adverse interest, and Senator Salus was left to play a lone hand in its support.

A crowded hearing was held at Harrisburg on March 19 at which the bill was defended by Thomas Raeburn White, prominent attorney and chairman of the Philadelphia City Charter Committee organized to support the proposal, and by Walter J. Millard, field secretary of the National Municipal League and of the Proportional Representation League. Short speeches in favor were also given by manufacturers, business men, and leaders of a number of influential women's organizations. The endorsements of the Philadelphia Committee of Seventy, the Philadelphia Central Labor Union, the city and state Leagues of Women Voters, the Philadelphia branches of the Republican Women of Pennsyl-

vania and the Pennsylvania Council of Republican Women, the Democratic Women's Committee of Philadelphia, the W. C. T. U., and several other important organizations were on record. No one appeared to speak in opposition. Subsequently strong editorials appeared in the Philadelphia *Evening Bulletin*, the Philadelphia *Public Ledger*, the Philadelphia *Inquirer*, and the Philadelphia *Record*, all urging the passage of the bill on the principle of home rule, since the bill merely gave the people of Philadelphia the right to settle the question for themselves.

In spite of all this evidence of popular support, it took the Senate Committee on Municipal Affairs only about five minutes at the close of a night session in the early morning hours of March 26 to decide that consideration of the bill should be "indefinitely postponed"—that is, that it should not be reported out for a record vote. The decision was taken in executive session behind closed doors, with the understanding that strict secrecy should be maintained, but from what the members were willing to say as to their own positions, a picture of the meeting has been constructed which is doubtless fairly accurate. The Philadelphia delegation was almost evenly divided. With seven of the eight senators from the city present (the absent senator also was a member of the committee and had been in the senate chamber a few minutes before the meeting was called), four opposed the bill, two—Senator Salus and Senator Woodward, independent member from Germantown—supported it openly, and a third—Senator McCrossin, the Democrat who defeated Mrs. Flora Vare in the Smith wave last fall—took no part in the discussion but was prepared to vote favorably on the principle of home rule. Chairman Aron of Philadelphia led the attack. Most of the upstate senators joined the Vare organization majority against the bill.

The City Charter Committee met later in the week and decided to continue its educational work and the building up of its membership by wards and divisions with the idea of making the bill an issue in the legislative elections of 1930. Meanwhile many of the leading members of the Committee will do what they can, in coöperation with other independents, to wrest political control from the Vare organization. Mr. Vare's illness and Mr. Monaghan's disclosures of official corruption have produced a situation in which their endeavors may well bear fruit. If the manager bill is passed by the next legislature, no time will have been lost, for it can still go into effect in the next election of Philadelphia councilmen in 1931.

It is clear that proportional representation killed the bill so far as this session of the legislature was concerned; also that without it no substantial improvement in Philadelphia's government can be expected. The citizens' organization behind the manager plan stood as a unit against suggestions that P. R. be eliminated, although they knew full well that with this one concession the bill could pass.

The three bills to make P. R. and the manager plan optional for second and third-class cities and for all boroughs met a similar sad fate.

George H. Hallett, Jr.

*

The Budget Fight in New York State.—A fight between Governor Roosevelt and the legislative leaders developed during the recent session of the New York legislature over the provisions of the so-called executive budget amendment, adopted by the people of the state in November, 1927. The immediate cause of this political animosity was the budget which Governor Roosevelt presented to the legislature on January 28 of this year. It was the first prepared under the amendment, a fact that made it of more than passing interest; besides, it represented the initial product of the long struggle which had been carried on in New York State by Colonel Henry L. Stimson, former Governor Smith and others in behalf of the adoption of the budget amendment.

So far as its form was concerned, Governor Roosevelt's budget was not unlike the one Governor Smith had prepared under purely statutory provisions and presented to the legislature the year before. In fact it followed exactly the same general lines. It contained a budget message by the governor, a few summary tables, a brief recapitulation of the estimates of each spending agency, and drafts of proposed appropriation bills. When it reached the legislature, the leaders contended, and with justification, that Governor Roosevelt's budget was not "clearly itemized," as required by the constitutional amendment. Indeed, the only itemization was to be found in the appropriation bills, and this did not carry comparative figures for the two preceding fiscal years. The governor did not publish the expenditure information in detail as presented to him on the departmental estimates.

When Governor Roosevelt's budget was sub-

mitted to the legislature, it was referred to the standing finance committees of the two houses—the senate finance committee and the assembly ways and means committee. This precipitated the first skirmish between the governor and the legislative leaders. Since the budget amendment provides that the governor and the departmental heads may appear before the legislature and be heard with respect to the budget, it was contended by the governor's supporters in the legislature that the sending of the budget to the finance committees did not satisfy the constitutional requirement. Although the legislature passed a law to this effect, supplementing the budget amendment, Governor Roosevelt in approving the law said that it was not objectionable to him since it did not interfere with the right to appear before the houses in session but merely conferred an additional right to appear before the committees. He indicated that he expected the legislature to pass another law carrying out the constitutional mandate, but this was never done. During the legislative session, Governor Roosevelt did not appear before either the houses or the finance committees in behalf of his budget; the budgetary matters which he took up with the legislature were discussed through special messages. Nor did the legislature request him or his departmental heads to come before it and explain the budget. The legislative practice in this respect, so far as the present year is concerned, remains the same as before, regardless of what the framers of the budget amendment may have had in mind.

But the part of the legislative procedure which stirred up the greatest furor was the action of the finance committees on the governor's appropriation bills. The stand taken by these committees had the support of the Republican majority in the legislature which consistently opposed Governor Roosevelt in all his fiscal proposals. The committees modified the executive bills until they were quite similar to the appropriation acts of the preceding year. Where Governor Roosevelt had asked for lump sum appropriations in the case of certain departments and institutions with the proviso that these amounts were to be expended in accordance with detailed schedules approved by him, the finance committees added that these schedules must also be approved by their two chairmen. It was mainly on this account that Governor Roosevelt vetoed items in the general appropriation bill, aggregating more than $54,000,000, or approximately a fifth of the total state budget. This action on the part of the governor left some of the departments, notably the law and the labor departments, and several of the state institutions without appropriations for the next fiscal year. The governor then submitted to the legislature two supplementary bills, one presenting the items which he had vetoed in the general bill in lump sum amounts and the other setting forth the same items in detailed form. The legislature, he stated, might take its choice of these bills. But again the finance committees drafted a supplementary bill to their own liking, which was duly voted by the legislature. This bill, though following in the main the governor's detailed bill, contained the same feature which had led to the veto in the case of the general bill. This time the legislative leaders had fortified their stand by an opinion of the attorney general to the effect that there was nothing in the budget amendment which would prevent the legislature from designating the chairmen of the finance committees to share with the governor the power of distributing lump sum appropriations. At this writing (April 10), the supplementary appropriation bill, which is among the thirty-day bills on the governor's desk, has not yet been acted on by the executive. It is intimated that, in the event the governor should veto any part of this bill, the fight may be carried to the courts for a ruling on whether the recent legislative action is within the letter and spirit of the budget amendment.

Both the governor and the legislature appear to have failed this year to carry out in certain respects the provisions of the budget amendment. The governor's budget document, as presented to the legislature, was not prepared in the detailed form contemplated by the amendment. The legislature, in acting on the governor's appropriation bills, did not amend them in such a way as to show clearly just what changes had been made in the executive recommendations. It reduced or eliminated items without indicating that such action had been taken; it added to items without stating such additions separately and distinctly from the original items, thus defeating the governor's veto power with respect to increases. Other things might be cited, but space does not permit. All in all, the experience of this year indicates that the budget amendment has largely failed to work any change in the fiscal practices of the state. Unless the legislature and the governor are willing to put their best efforts

into carrying out the budgetary provisions, forgetting their political differences, the amendment is likely to become a dead letter.

A. E. Buck.

*

Cincinnati Firemen Become Policemen.—City Manager Sherrill of Cincinnati has given instructions that all members of the fire department are to be sworn in as police officers with full police powers. Hereafter firemen will be responsible for assisting the police department in the enforcement of traffic regulations and other police ordinances when such work does not interfere with their present duties of fire fighting. The members of the fire department will have the same authority to make citations and prosecute cases as that possessed by police officers.

Instructions have also been issued by the city manager to fire and ladder companies, on the sounding of a general police alarm in the fire houses, to occupy sixty-five important street intersections in such a manner as to block passage by motor vehicles and thus aid in preventing the escape of criminals who have committed major crimes. Under this plan practically all exits from the city which can be employed by fleeing criminals will be closed. The manager believes that the new scheme will be of great value in reducing serious crime in the city.

*

Two Victories for Manager Plan.—On March 18, Saranac Lake, New York, adopted the village manager form of government by a vote of 2 to 1. On March 12, Charlotte, North Carolina, did likewise, by a majority of 1,939 votes. The following is a quotation from a letter sent us by Earl F. O'Dea of the Charlotte Industrial Bureau:

> Permit me, once more, to thank you (The National Municipal League) for the very excellent service that you have extended to us. I can certainly say, from experience, that an association such as yours is of invaluable assistance to those who are interested in improving their municipal government.

*

Missouri League of Women Voters Holds Third Institute of Government.—On March 21 and 22 the League of Women Voters of Missouri held its annual Institute of Government and Politics, the topic this year being "Simplification of Our State Administration." Addresses were made by Dean Isidor Loab, Dr. Lent D. Upson, Walter Matscheck, Carter W. Atkins, Prof. Lloyd M. Short, Miss Adele Clarke and others.

*

Conference on Municipal Issues.—On April 9 and 10 the New York League of Women Voters held its second annual Conference on Public Affairs for the discussion of municipal issues. Speakers prominent on the program included Dr. John Bauer, Lawson Purdy, Henry Bruère, Thomas Adams and Louis Brownlow. Richard S. Childs, Mayor Seasongood of Cincinnati and Mayor Walker of New York spoke at the banquet session on "This Business of Being Mayor." Messrs. Childs and Seasongood favored the manager plan. Mayor Walker was not so enthusiastic about it.

STATEMENT OF THE OWNERSHIP, MANAGEMENT, CIRCULATION, ETC.,

Required by the Act of Congress of August 24, 1912,

Of NATIONAL MUNICIPAL REVIEW, published monthly at Concord, New Hampshire, for April 1, 1929.

STATE OF NEW YORK, COUNTY OF NEW YORK, SS.

Before me, a notary public, in and for the State and county aforesaid, personally appeared H. W. Dodds, who, having been duly sworn according to law, deposes and says that he is the editor of the NATIONAL MUNICIPAL REVIEW and that the following is, to the best of his knowledge and belief, a true statement of the ownership, management etc., of the aforesaid publication for the date shown in the above caption, required by the Act of August 24, 1912, embodied in section 411, Postal Laws and Regulations, printed on the reverse of this form, to wit:

1. That the names and addresses of the publisher, editor, managing editor, and business managers are:
   Publisher, National Municipal League, 261 Broadway, New York, N. Y.
   Editor, H. W. Dodds, 261 Broadway, New York, N. Y.
   Managing Editor, None.
   Business Managers, None.

2. That the owner is: The National Municipal Review published by the National Municipal League, a voluntary association, incorporated in 1923. The officers of the National Municipal League are: Richard S. Childs, President; Carl H. Pforzheimer, Treasurer; Russell Forbes, Secretary.

3. That the known bondholders, mortgagees, and other security holders owning or holding 1 per cent or more of total amount of bonds, mortgages, or other securities are: None.

4. That the two paragraphs next above, giving the names of the owners, stockholders, and security holders, if any, contain not only the list of stockholders and security holders as they appear upon the books of the company but also, in cases where the stockholder or security holder appears upon the books of the company as trustee or in any other fiduciary relation, the name of the person or corporation for whom such trustee is acting, is given; also that the said two paragraphs contain statements embracing affiant's full knowledge and belief as to the circumstances and conditions under which stockholders and security holders who do not appear upon the books of the company as trustees, hold stock and securities in a capacity other than that of a bona fide owner; and this affiant has no reason to believe that any other person, association, or corporation has any interest direct or indirect in the said stock, bonds, or other securities than as so stated by him.

H. W. DODDS,
Editor.

Sworn to and subscribed before me this 25th day of March, 1929.

MAY F. DONOVAN,
Notary Public.

SEAL] (My commission expires March 30, 1930.)